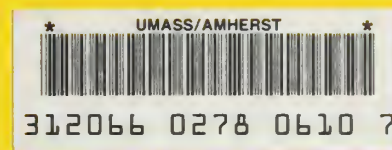


MASS. MA13.2: M38/2



MASSACHUSETTS RIGHT TO KNOW

GOVERNMENT DOCUMENTS
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EMPLOYER ASSISTANCE MANUAL



Massachusetts Department of Labor and Industries
100 Cambridge Street
Boston, MA 02202

MASSACHUSETTS RIGHT TO KNOW

EMPLOYER

ASSISTANCE MANUAL

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February, 1987

M A S S A C H U S E T T S
R I G H T T O K N O W
E M P L O Y E R A S S I S T A N C E
M A N U A L

TABLE OF CONTENTS

| | Page |
|---|------|
| LIST OF FIGURES. | i |
| INTRODUCTION | ii |
| Section | |
| I. OVERVIEW OF THE MASSACHUSETTS RIGHT TO KNOW LAW. | 1 |
| What is the Right to Know Law? | 2 |
| Which Workplaces are Regulated by the Right to Know Law? | 3 |
| Which Products are Covered? | 4 |
| Which Products are Exempt? | 4 |
| What are Employers Required to do? | 5 |
| Recommended Right to Know Tasks | 6 |
| II. HELP MODULES | 7 |
| 1. Getting Started | 8 |
| 2. Conducting the Right to Know Inventory. | 10 |
| 3. Fulfilling Your Material Safety Data Sheet (MSDS) Requirements. | 16 |
| 4. Container Labeling. | 27 |
| 5. Employee Training | 31 |
| 6. Recordkeeping and Ongoing Tasks | 41 |
| III. GOVERNMENTAL DUTIES and ENFORCEMENT of the MASSACHUSETTS RIGHT TO KNOW LAW. | 43 |
| Duties of the Governmental Agencies | 44 |
| Enforcement and Penalties. | 47 |
| IV. APPENDICES | 50 |
| A. Directory of Assistance | 51 |
| B. Right To Know Workplace Notice. | 52 |
| C. How to Obtain Massachusetts Right to Know Documents | 53 |
| D. Index to Massachusetts Right to Know Law | 54 |
| E. DEQE Regional Office Map. | 56 |
| F. Directory of Private Agencies and Organizations | 57 |
| G. References for a Safer and Healthier Workplace. | 60 |
| H. Municipal Right to Know Fact Sheet. | 67 |
| I. Massachusetts Substance List. | 69 |
| J. MSDS Criteria Sheet | 70 |
| K. Right to Know Consultation Program. | 72 |

List of Figures

| | <u>Page</u> |
|--|-------------|
| Figure 1: Product Inventory Sheet. | 12 |
| Figure 2: Access to MSDSs: Employees. | 23 |
| Figure 3: Access to MSDSs: Community Residents. | 24 |
| Figure 4: Sample Material Safety Data Sheet (MSDS) Form. | 26 |
| Figure 5: Sample Labels. | 29 |
| Figure 6: National Fire Protection Association (NFPA) Label. . . . | 29 |
| Figure 7: Agency Responsibilities. | 46 |
| Figure 8: DEQE Regional Offices. | 56 |

INTRODUCTION

The Department of Labor and Industries has written the Right to Know Employer Assistance Manual for you, the employer. It is especially geared for the public sector and small private employers (such as auto body shop owners, town administrators, landscaping owners and community college managers). The Manual is not intended to be a substitute for reading the law but rather to serve as a companion guide book to the law. The Manual offers a step-by-step explanation of the legal and technical issues involved with fulfilling your requirements under the Right to Know Law. It is assumed that you, the employer, are new to these issues, and that you do not have the resources to hire a full-time health and safety professional.

The Massachusetts Right to Know Law serves to protect the health of employees by communicating to them information on hazardous or toxic substances in the workplace. The law also provides access to this information to community residents through the Department of Environmental Quality Engineering (see Figure 3, p. 24). The responsibility for gathering and disseminating this information to employees rests primarily with you, the employer.

The Manual reviews all of the workplace requirements under this law and provides detailed guidelines and special tips on how to most effectively use the resources you have available. It will provide the information you need to set up and maintain your workplace Right to Know Program.

The Manual is organized so that you can use it easily and quickly to get the information you need. It is divided into four sections. The first two sections provide an overview of the law and detailed information on how to fulfill your responsibilities. The third section reviews the functions of the state agencies responsible for implementing the law and where to turn for further assistance. It also reviews the Department of Labor and Industries' enforcement and penalty provisions of the Right to Know Law. The final section consists of appendices which contain supporting information that is referenced throughout the Manual.

For further technical assistance, the Division of Occupational Hygiene has a Right to Know Consultation Program to assist you in meeting the requirements of the law. The program's services are provided at no cost; more information can be found in Appendix K, p. 72.

NOTE: The federal Occupational Safety and Health Administration (OSHA) has recently issued its Hazard Communication Standard, also known as the Federal Right to Know Law. This standard applies currently only to employers in the manufacturing sector and may preempt many provisions of the Massachusetts law for that sector. Employers in the manufacturing sector must still follow some of the requirements of the Massachusetts Right to Know Law (see p. 3). Non-manufacturing and public employers are not covered by the federal Hazard Communication Standard; thus all the provisions of the Massachusetts Right to Know Law remain in effect for these employers. Despite the differences between the two laws, this manual can be a useful reference for employers in the manufacturing sector.



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SECTION I



OVERVIEW
OF THE
MASSACHUSETTS
RIGHT TO KNOW LAW

A. WHAT IS THE RIGHT TO KNOW LAW?

The Massachusetts Right to Know Law (Massachusetts General Laws, Chapter 111F) was signed by Governor Michael Dukakis in November 1983 and became effective September 26, 1984. The law requires manufacturers to supply employers, and employers to provide employees, with information on the toxic and hazardous substances in their workplaces. In certain circumstances, employers indirectly supply this information to community residents, medical personnel and state and local officials. There are approximately 1600 substances defined as toxic or hazardous under the law. This official list of regulated substances is called the Massachusetts Substance List (see Appendix I).

It is hoped that informed employees and employers will make better decisions regarding work operations that involve hazardous chemicals. Employees will be more able to recognize hazardous situations at work, and either correct the situation themselves (if possible), or alert and work with their employer.

Under the Massachusetts Right to Know Law, communication of information to employees is accomplished in three ways:

1. Material Safety Data Sheets or MSDSs: These brief documents, obtained from manufacturers and suppliers of toxic and hazardous substances, are the primary sources of information under the law. They include information such as chemical identity, physical properties, health and safety hazards, safe handling procedures, and spill, leak and disposal procedures. For an example of an MSDS, see Figure 4, p. 26.
2. Container Labels: The chemical contents of certain containers must appear on the label. Ideally, the label alerts workers and supervisors to the presence of toxic or hazardous chemicals. Also, such information is useful to an employee's physician, workplace health and safety committee, etc.
3. Employee Training: Employers must provide annual training to employees on the hazards and safe handling procedures of regulated substances in the workplace. New employees must also be trained within thirty days of employment.

If you, the employer, implement a workplace Right to Know program which integrates these three methods of communication, it will be an effective way of protecting the health of employees who work with hazardous products.

Note: There are restrictions on disclosing information obtained under the Right to Know Law. For example, employers who obtain information from manufacturers may disclose such information to employees but not to the general public. There is a suit that has been recently filed that challenges the non-disclosure clause.

B. WHICH WORKPLACES ARE REGULATED BY THE RIGHT TO KNOW LAW?

When the Massachusetts Right to Know Law originally went into effect on September 26, 1984, it covered most workplaces in Massachusetts. Recently, however, the federal Occupational Safety and Health Administration (OSHA) issued its own Hazard Communication Standard. This standard currently applies only to employers in the manufacturing sector (i.e., those classified in the Standard Industrial Classification Codes 20 to 39). It may preempt the Massachusetts Right to Know Law in that sector, only as it applies to "worker right to know" provisions (e.g., labeling, training, providing workers with MSDSs, etc.). This preemption does NOT absolve employers in the manufacturing sector of the following requirements under the Massachusetts Right to Know Law:

- Massachusetts employers in the manufacturing sector must file Material Safety Data Sheets (MSDSs) for all regulated products with the appropriate regional office of the Massachusetts Department of Environmental Quality Engineering (see Module 3, p. 16).
- Manufacturers in all states who supply toxic or hazardous substances to employers in Massachusetts must provide them with Material Safety Data Sheets (MSDSs).

In both cases, MSDSs must meet the standards of the Massachusetts Right to Know Law (see Appendix J).

There are no exclusions based on the number of employees or the size of the company. There are some exclusions, although narrow in scope, based on the nature of operations, as follows:

1. Research Laboratories: Exemption from Right to Know coverage is available to research laboratories only by applying to the Massachusetts Department of Public Health. A research lab is defined as:

"...any workplace or work area of a workplace used primarily for research, development, nonroutine testing or experimentation activity in which toxic or hazardous substances are used by or under the direct supervision of a technically qualified individual. Provided, however, that a research laboratory shall not be involved in the production or manufacture of goods for direct commercial sale."

Even if exempt, research laboratories must still ensure that workers are fully informed of the hazards and safe handling procedures for regulated chemicals. For more information on the application procedures for a Research Laboratory Exemption, contact the Department of Public Health, Right to Know Program, (617) 727-4942.

2. Police Stations and Armories where ammunition is stored are not covered by the Massachusetts Right to Know (RTK) Law.
3. Domestic Workers and Casual Laborers employed at the place of residence of the employer are not covered by the Massachusetts RTK Law.

4. Workplaces operated by the federal government are not covered by the Massachusetts RTK Law.

For all other employers, the Massachusetts RTK Law applies. But its applicability, of course, depends on whether regulated substances are used or stored in the workplace.

C. WHICH PRODUCTS ARE COVERED?

In general, all products that contain any of the toxic or hazardous substances on the Massachusetts Substance List (MSL) in regulated amounts are covered by the Massachusetts RTK Law. (For more information on the MSL, see Appendix I.) There are currently over 1600 substances on the MSL.

D. WHICH PRODUCTS ARE EXEMPT?

There are some major exemptions that have been granted under the law and regulations. The Commissioner of the Department of Labor and Industries has the power to grant additional exemptions.

1. Consumer Products

Consumer products are exempt from the law if:

- a. they do not contain any carcinogens, teratogens, mutagens, neurotoxins or extraordinarily hazardous substances, and
- b. they are not required to be labeled under section 7 of the law (see p. 27), and
- c. they are used in the workplace in such a manner that employees are exposed at a level equivalent to exposures resulting from consumer usage.

NOTE: As the employer, you will need to know what is in the product to ensure that it does not contain any extraordinarily hazardous substances. Often, the label will not provide this information and you will have to obtain an MSDS from the supplier or manufacturer (see Help Module 3, p. 16).

The second determination you must make is whether the product is being used in your workplace in such a manner that the employees are exposed at a level greater than that of consumer usage.

2. Office Supplies

All office supplies that are found in an office environment are exempt, including materials used in photographic and copying machines, if:

- a. the amount of the toxic or hazardous substance found in office supplies is equivalent to amounts and forms available to consumers, and
- b. they are used in the workplace in such a manner that employee exposure is equivalent to consumer exposure.

3. Food Stuffs

4. Gasoline, Oils and Other Additives

These products are exempt if:

- a. they are in fuel tanks, engines and other operating systems of cars or light duty trucks, and
- b. the substances are present in amounts and forms available to consumers, and
- c. they are used in such a manner that employee and environmental exposure is equivalent to consumer usage.

NOTE: Gasoline pumps at public service stations and fueling facilities are not exempt and must be labeled appropriately (see Help Module 4, p. 27).

5. Fuel Oils, Natural Gas, Kerosene, Petroleum or Propane

These products are exempt if:

- a. they are used for space heating or power generation purposes, and
- b. employees are not exposed to fumes or combustion by-products, and
- c. all required emission control equipment is used.

6. Alcoholic Beverages

7. Articles: Finished products or manufactured items

These products are exempt if:

- a. they are formed to a specific shape or design during manufacture, and
- b. their end use function is dependent on its end use design or shape, and
- c. they have no change of chemical composition during end use.

E. WHAT ARE EMPLOYERS REQUIRED TO DO?

As an employer, you must determine if there are any toxic or hazardous substances used in your workplace. It is important to designate an individual to be in charge of your program. The following outline on the next page assumes that there are regulated substances in your workplace. It provides you with a list of the responsibilities and the corresponding module in this manual.

RECOMMENDED RIGHT TO KNOW TASKS

Right to Know Tasks

Where to Get Help

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- | | |
|---|--|
| 1. Appoint a Workplace RTK Coordinator | Help Module 1: "Getting Started", p. 8 |
| 2. Obtain a Copy of the RTK Law & Regulations | |
| 3. Post Workplace Notice(s) | |
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- | | |
|---|--|
| 4. Determine Which Substances in Your Workplace are Regulated | Help Module 2: "Conducting the Right to Know Inventory", p. 10 |
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- | | |
|---|--|
| 5. Obtain MSDSs for Regulated Substances from Suppliers/Manufacturers | Help Module 3: "Fulfilling Your Material Safety Data Sheet (MSDS) Requirements", p. 16 |
| 6. Review MSDSs for Completeness | |
| 7. File MSDSs with DEQE | |
| 8. Establish Procedures for Employees and Others to Obtain MSDSs | |
-
- | | |
|---|--|
| 9. Label Workplace Containers with Chemical Name(s) of Contents and, if Applicable, the NFPA Code | Help Module 4: "Container Labeling", p. 27 |
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- | | |
|--|---|
| 10. Train Employees Annually on Employee Rights, How to Read an MSDS, and Specific Workplace Hazards | Help Module 5: "Employee Training", p. 31 |
|--|---|
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- | | |
|---|---|
| 11. Maintain a File of MSDSs | Help Module 6: "Recordkeeping and Ongoing Tasks", p. 41 |
| 12. Keep Records of Training | |
| 13. Keep the Entire RTK Program in Your Workplace Accurate and Up-To-Date | |
-

SECTION II



HELP MODULES

HELP MODULE 1: GETTING STARTED

While at first it may seem that there are many tasks involved, with some organization and persistence you will get these tasks accomplished. By following the suggestions and strategies in this Manual, your job will be made easier. One key element of a successful Right to Know program is getting started on the right track. Three important tasks should be accomplished at the onset:

- A. appoint a Right to Know Coordinator,
- B. obtain and review the Right to Know (RTK) Law and Regulations,
- C. post the Right to Know Workplace Notice.

A. APPOINT A RIGHT TO KNOW COORDINATOR

It is recommended that one person be assigned the responsibility for developing and implementing your Right to Know program. In a small workplace, this person may be able to carry out all the Right to Know compliance tasks in addition to his or her regular functions. In a large workplace, the Right to Know Coordinator should be a full-time health and safety staff person (e.g., an industrial hygienist, health educator, occupational health nurse).

The Right to Know Coordinator should be familiar with the workplace and management structure. The Coordinator should have expertise in workplace health and safety and be able to enlist the assistance of safety personnel, line supervisors, company nurses or physicians, workplace safety committees, union safety representatives, private consultants, state agencies, etc. (see Directory of Assistance, Appendix A).

B. OBTAIN AND REVIEW THE LAW AND REGULATIONS

The Right to Know Law and Regulations are available to the public (to order, see Appendix C). It is important that all employers have these documents, for they contain the official requirements employers must fulfill. This guidebook can help you understand these requirements if you use it in conjunction with the law and regulations. (An index of the Right to Know Law is presented in Appendix D.)

C. POST WORKPLACE NOTICES

A Right to Know Workplace Notice must be posted in English in a central location, e.g. the lunch room, near a time clock, on a workplace bulletin board, etc. A copy of the English Workplace Notice is provided in Appendix B. If any employee speaks a language other than English, a Workplace Notice in that language, if available, must also be posted. Workplace notices are currently available in the following languages from the Department of Labor and Industries:

| | |
|-----------|------------|
| Cambodian | Laotian |
| Chinese | Polish |
| English | Portuguese |
| French | Spanish |
| Italian | Vietnamese |

To obtain these Notices, call or write to either of the following agencies:

Department of Labor & Industries
Division of Industrial Safety
Right to Know Office
100 Cambridge Street
Boston, MA 02202
(617) 727-5816

Department of Labor & Industries
Division of Occupational Hygiene
Right to Know Program
1001 Watertown Street
West Newton, MA 02165
(617) 969-7177

You are now prepared to proceed with the next step in your Right to Know program: that is to conduct an inventory of the chemical substances in your workplace to determine which ones are regulated. You may find through this process that regulated substances are not used or stored in your workplace. In that case, there is no need for a person to serve as Right to Know Coordinator, and Right to Know Notices need not be posted. Be aware, however, that you must determine if new products entering your workplace are regulated, or if amendments to the Massachusetts Substance List change the regulatory status of substances in your workplace (see Help Module 6, "Recordkeeping and Ongoing Tasks", p. 41).

HELP MODULE 2: CONDUCTING THE RIGHT TO KNOW INVENTORY

You cannot know your obligations under the Right to Know (RTK) Law until you conduct an inventory of the products that are used or stored in your workplace. While your purchasing department can help by supplying a list of purchased products, it should not substitute for an on-site survey of the products in your workplace. This will ensure that all products (such as cleaning supplies) are recorded in your inventory. Your next step is to determine which of your workplace products are covered under the law. This determination is made by comparing the chemical names and percent composition of ingredients of workplace products with the Massachusetts Substance List (MSL). The MSL is the official list of all toxic or hazardous substances regulated by the law.

If a product in your workplace contains one or more toxic or hazardous ingredients listed on the MSL and is present at concentrations of at least 1% (2% if an impurity), that product is regulated by the RTK law. There is another class of substances called "Extraordinarily Hazardous Substances". If a substance is on this much smaller sub-list, it is regulated at a concentration of one ten thousandth of one percent (or one part per million). For further information on the Massachusetts Substance List, see Appendix I.

A. WORKPLACE PRODUCT INVENTORY

For each product used or stored in your workplace, it is important for you to record as much information as possible. Use the Product Inventory Sheet (Figure 1, p. 12).

The following is a list of each item on the Product Inventory Sheet and an explanation of its usefulness.

1. Product (trade or common) Name:

The product name is the name that is often most prominent on the label and the one that is listed in catalogs and used when making a purchase. The product name of the substance should not be confused with the chemical name(s) of the ingredient(s). If the product is made up of only one chemical, then the product name and chemical name may be identical. You will need to use the product name when you request Material Safety Data Sheets (MSDS) from the manufacturer. (For a sample MSDS, see Figure 4, p. 26)

2. Manufacturer's (or Supplier's) Name and Address:

This information identifies the source of the product as well as where to write when requesting Material Safety Data Sheets.

3. Container Size (By Weight or Volume):

This information is necessary to determine labeling requirements (see Help Module 4, p. 27).

4. Chemical Ingredients:

The chemical names of ingredients are needed to cross-match with the Massachusetts Substance List (MSL) in order to determine if the product is regulated by the RTK Law. This information may be obtained from product labels or a Material Safety Data Sheet (MSDS).

5. Percent Composition (of Each Ingredient in the Mixture):

This will determine if an MSL substance in a product meets or exceeds the percentage requirements of the law. The concentration of a hazardous ingredient in a mixture can indicate how hazardous a material may be. In some instances, this information is found on the product label but generally you will have to get it from the MSDS.

6. Chemical Abstract Service (CAS) Number:

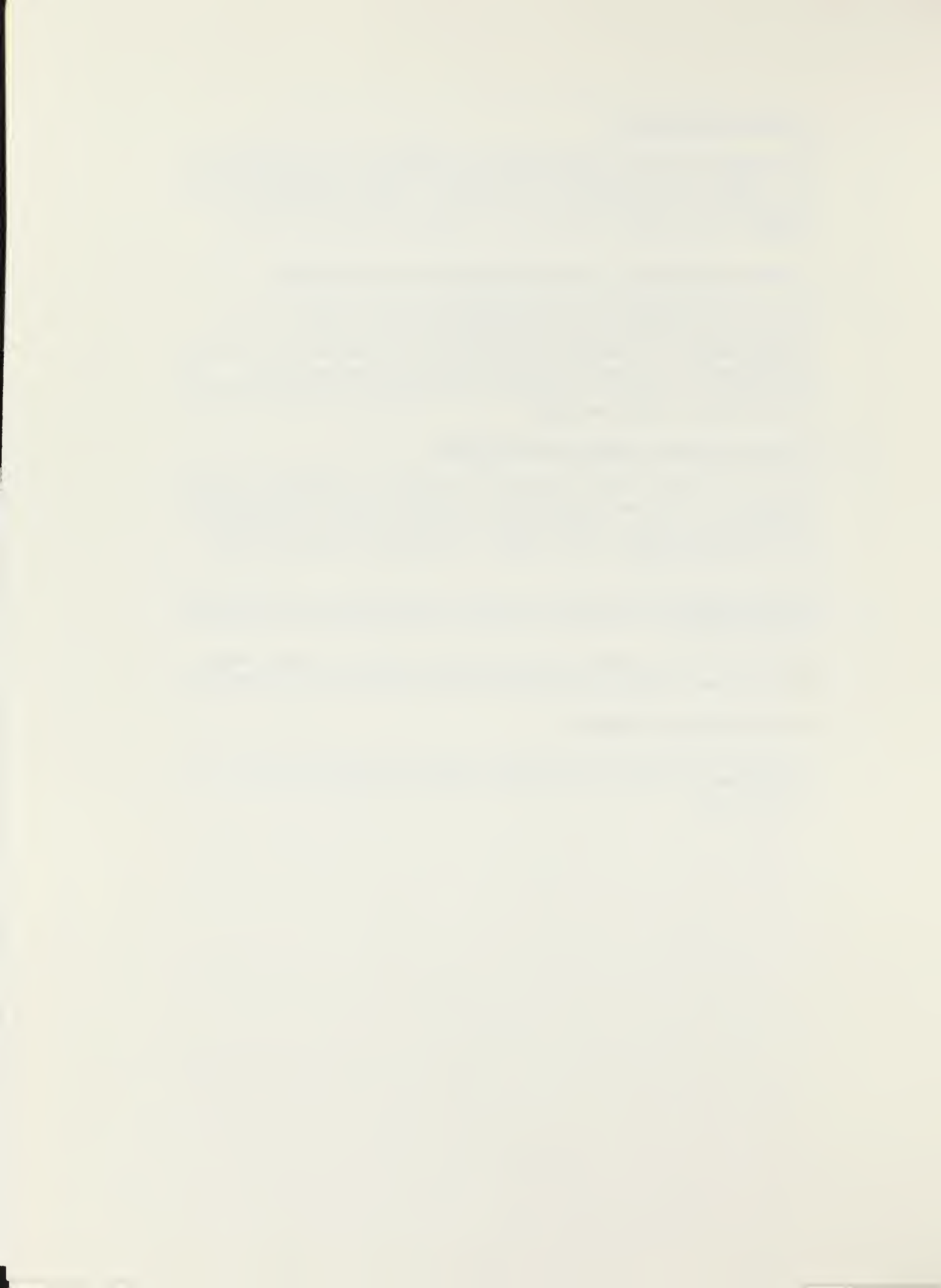
This is a number that is assigned to every pure chemical. It is helpful to have when checking the MSL since the MSL is indexed by both chemical name and CAS number. Unfortunately, CAS numbers are often not found on the label, but should be found in most cases on the MSDS.

7. Work Location - areas where products are manufactured, processed, used or stored:

Location can be useful when designing a training program which will inform workers where hazardous materials may be encountered.

8. How The Product Is Used:

This information can help you in your training and also help you determine if a safer, but equally effective, product can be substituted.



PRODUCT INVENTORY SHEET

Figure 1

| | Product Name | Manufacturer's Name and Address | Container Size | ¹ Chemical Ingredients | ¹ Percent Composi- tion | ^{1,2} CAS # | Work Location | How It Is Used |
|----|--------------|------------------------------------|-------------------|---|---|-------------------------|------------------|----------------|
| 1. | | | | | | | | |
| 2. | | | | | | | | |
| 3. | | | | | | | | |
| 4. | | | | | | | | |
| 5. | | | | | | | | |

1 This information is sometimes found on the container label.

2 CAS # stands for Chemical Abstract Service number

Inventory completed by _____

Date _____

B. POSSIBLE INVENTORY PROBLEMS

In conducting your product inventory, you may have some difficulty collecting the information. The following section will explain how to deal with some of these problems.

1. Chemical Terms

The following chemical terms may be useful to you when conducting the inventory.

a. Mixture vs. Pure Substance

An important concept is the difference between a mixture and a pure substance. A mixture contains two or more ingredients, whereas a pure substance is made up of only one material. Each pure substance has its own characteristics. When the pure substances are blended together into a mixture, the mixture as a whole will have unique characteristics that is a combination of the properties of the individual ingredients.

* * * * *

Example: A paint brush cleaner called Like-Nu is a mixture. It is made up of benzene, toluene, xylene, acetone and methyl alcohol - five pure substances. The characteristics of the paint brush cleaner will be a combination of the properties of the ingredients. On the other hand, a pure substance could be called Spot-B-Gone and be made up of 100% carbon tetrachloride.

* * * * *

b. Chemical Name vs. Product (trade) name

In the above examples, the product names are Like-Nu and Spot-B-Gone. However, you will need to use the chemical names of the ingredients in these products when determining if they are on the Massachusetts Substance List (MSL). The chemical name of Spot-B-Gone is carbon tetrachloride and Like-Nu has five ingredients whose chemical names are benzene, toluene, xylene, acetone and methyl alcohol. You will know if these products are regulated by the law if the chemical names of any of their ingredients are on the MSL.

The product name is used when writing to the supplier or manufacturer for a Material Safety Data Sheet (MSDS).

c. Chemical Family Name vs. Individual Chemical Name

Product labels and MSDSs often give the family name or generic term for the ingredients. This term does not give you the exact content of the product because it refers to a group of chemicals. Examples of family groups that may be found on labels or MSDSs are:

- | | | |
|-------------------------------|----------------------|------------|
| - halogenated hydrocarbons | - pigments | - solvents |
| - aliphatic hydrocarbons | - metallic compounds | - acids |
| - aromatic hydrocarbons | - alcohols | - resins |
| - epoxy compounds | - ketones | - ethers |
| - phenols and their compounds | - aldehydes | - cyanates |

If the label supplies one of these family names and not the exact name of the individual chemical, you will not be able to determine if it is regulated because the Massachusetts Substance List (MSL) lists only chemical names. You will then have to obtain an MSDS on the product.

* * * * *

Example: Solvent is the name for a group of chemicals that are degreasing agents. Methylene chloride is the name of a pure chemical that is a solvent. Methylene chloride is listed on the MSL.

* * * * *

2. Obtaining the Chemical Names and Percent Composition of Ingredients

It is sometimes possible with pure chemicals to get the chemical name from the container label. This is often true of products found in labs. In mixtures, it is less likely that the product label will provide you with all the chemical ingredients and their percent composition. If you have any doubt about whether the label has provided complete information, it is strongly recommended that you get this information from a Material Safety Data Sheet (MSDS). (See Help Module 3 for assistance on how to obtain MSDSs.) Once you have all the information, you will be ready to determine which of your products are covered by the law (see p. 15).

3. Determining the Name and Address of the Manufacturer

If the container has a label with the product name but lists no manufacturer or supplier, first check to see if the purchasing department has a record for that product. If no one in your workplace has any information, call the Chemical Manufacturers Association toll-free at 1-800-262-8200 for assistance.

4. No Label on a Product

Over time the label may wear out or fall off the container. Your first step would be to see if there are any old inventories that would identify the product. Ask the employees who use the product if they have any information. The purchasing department may also have some records on the product. As a last resort, you may have to have the product tested to determine its chemical ingredients. You must affix a suitable label as soon as possible. However, if it is a product that is no longer in use you may dispose of it, but make sure you follow state and federal hazardous waste regulations.

C. HOW TO DETERMINE WHICH PRODUCTS ARE REGULATED

You need to know the chemical ingredients of products before you can determine which products are regulated. You may be able to get this information from the label if the label provides you with the names of all of the ingredients in the product. For most products you will have to obtain the MSDS to find out exactly what is in it (see Help Module 3 on how to obtain MSDSs). After you know the chemical ingredients in your workplace products, you are ready for the following steps:

1. Compare the chemical names of ingredients of the product with those listed on the most current version of the Massachusetts Substance List (MSL). If you have the Chemical Abstract Service number (CAS #) for the ingredients, you can also use it when checking the MSL. The MSL is indexed by both chemical name and CAS #. In fact, if available, it is better to use the CAS # because the name on the MSDS may not be listed as such on the MSL. Make a notation if a chemical ingredient is listed on the MSL. Also, be sure to identify those ingredients which are classified as "Extraordinarily Hazardous Substances" (see Appendix I). If you have any problems or need assistance see Appendix A.
2. Determine if MSL ingredients are present at levels equal to or greater than minimum regulated concentrations, as follows: If the concentration of one or more MSL ingredients in a particular product equals or exceeds the following levels, the product is regulated under the RTK Law.
 - Listed MSL Substance: 1% or, if it is an impurity, 2%
 - Extraordinarily Hazardous Substances: 1 part per million (ppm), equal to one ten-thousandth of one percent
3. Compile a separate "Workplace Right to Know Substance List" that identifies the regulated substances in your workplace. The RTK requirements for regulated substances are given in subsequent Help Modules of this manual.

As stated earlier, some of the MSL substances in your workplace may be exempt from coverage under the Right to Know Law. Exemptions, listed on page 4, should be reviewed before proceeding with your RTK compliance efforts.

HELP MODULE 3: FULFILLING YOUR MATERIAL SAFETY DATA SHEET
(MSDS) REQUIREMENTS

Under the Massachusetts Right to Know Law, Material Safety Data Sheets (MSDSs) are the primary means of communicating information about hazardous or toxic substances (for an example of an MSDS form see Figure 4, p. 26). The law requires that all employers obtain MSDSs for the toxic or hazardous substances used or stored in the workplace. Copies of these MSDSs must be forwarded to the office of the Massachusetts Department of Environmental Quality Engineering (DEQE) in your region (see Appendix E). Whenever you request an MSDS from a supplier or manufacturer, request it in writing and keep a dated copy of the request. Sending a copy of your request to the Departments of Labor and Industries and Public Health documents that you have made a diligent effort to obtain the MSDS. This provides proof of your compliance with certain sections of the law.

A. OBTAINING MSDSs

Step 1 Letter A (sample found below)

- Send a letter to the manufacturer or supplier requesting the MSDSs. The letter should include the product name and catalog code number, if any, and a copy of the MSDS criteria sheet (see Appendix J.) The MSDS Criteria Sheet will inform the manufacturer or supplier of Massachusetts requirements for MSDSs.
- If you do not receive the MSDS within approximately three weeks send a copy of Letter A with Letter B along with any responses to the Departments of Labor and Industries and Public Health (see next page). This will prove that you made a diligent effort to obtain the Material Safety Data Sheet.
- Proceed to Step 2 if you have not received the MSDS within three weeks.

Letter A: Suggested form letter for requesting MSDSs

Date

Product Information/Customer Service
Acme Chemical Company
36 Dover Lane
Nowhere, NY 02236

Dear Sir:

In accordance with the Massachusetts Right to Know Law (Massachusetts General Laws, Chapter 111F), please send me a copy of the Material Safety Data Sheet(s) for the following product(s), which are manufactured by, or I purchase from you:

Acme Soluble Lubricant
Acme Chemical Cleaning Solution
Butyric Acid
2-Chloro-2-Nitropropane

The enclosed MSDS Criteria Sheet explains the requirements for Material Safety Data Sheets under the provisions of the Massachusetts Right to Know Law.

Thank you for your cooperation.

Sincerely,

Letter B: Suggested form letter to document "diligent effort"

Date

Commissioner James F. Snow
Department of Labor & Industries
100 Cambridge Street
Boston, MA 02202

Dear Commissioner:

re: Evidence of "Diligent Effort"

Pursuant to M.G.L. Chapter 111F, we have made written inquiries requesting MSDSs to the manufacturer/supplier of products we purchase, which are regulated under the Massachusetts Right to Know Law.

Attached are copie(s) of the letter(s) we have sent requesting that MSDSs be forwarded to us.

To date we have not received these MSDSs. This letter and its attachments are proof of the diligent efforts we are making to obtain the required MSDSs.

Sincerely,

cc: Department of Public Health
Right to Know Program
150 Tremont Street
Boston, MA 02108

DEQE Regional Office
(See Appendix E for addresses)

Step 2 Second Request for MSDSs

- Send a second letter of request to the manufacturer or supplier which refers to the first letter. Attach a copy of the first letter.
- Keep a copy of the second letter for your files and any responses that you may have received from the manufacturer or supplier.
- If you do not receive a response in two weeks, continue to Step 3.

Step 3 Request Assistance From the Department of Labor and Industries
(Letter C, see below)

- If steps 1 and 2 do not work, request assistance in writing from the Commissioner of the Department of Labor and Industries (DLI). The request should include a copy of your letters to the manufacturer or supplier and any response received.
- Keep a copy for your file.
- Send a copy of the request for assistance letter to the manufacturer or supplier to inform them that you asked the State for assistance. Letter C shows a sample letter.

Letter C: Suggested form letter for "Request for Assistance"

Date

Commissioner James F. Snow
Department of Labor & Industries
100 Cambridge Street
Boston, MA 02202

Dear Commissioner:

re: Request for Assistance

Pursuant to M.G.L. Chapter 111F, we have made written inquiries for MSDSs to the manufacturer/supplier of products we use. Copies of our inquiries and any written responses we have received have previously been sent to D.L.I. as proof of our diligent effort.

In accordance with M.G.L. Chapter 111F, Section 9, this letter is a formal request for your assistance in obtaining the MSDSs from the following manufacturers/suppliers:

| <u>Name/Address of Manufacturer/Supplier</u> | <u>Product/or Substances</u> | <u>Catalog Code No.</u> |
|--|------------------------------|-------------------------|
|--|------------------------------|-------------------------|

Sincerely,

cc: manufacturers/suppliers

Please note: An employer who has shown diligent efforts to obtain MSDSs and who has made a documented request for assistance to the Commissioner of DLI shall not be found to be in violation of Section 11, Section 14, and Section 16 of the Law. A diligent effort consists of making a prompt written request to a manufacturer or supplier for an MSDS and sending a copy of the request and response to the Commissioners of DLI and DPH (Department of Public Health).

B. REVIEWING MSDSs

When you receive MSDSs, review them first before distributing them to employees, filing them, or sending copies to DEQE. The following is an explanation for reviewing MSDSs.

1. Review MSDSs to Determine if They List Any Substances That Are on the Massachusetts Substance List (see Help Module 2, p. 15).

- a. Check off any ingredients that are on the MSL.
- b. For products that do not contain MSL substances, it is recommended that you keep the MSDSs. It is not a requirement. A reason to keep the MSDS is that it provides you with information on the hazards of the product. The product may be hazardous or toxic even if it is not regulated under the Massachusetts Right to Know (RTK) Law; however, you may want to separate the non-regulated MSDSs from the rest of your inventory.

2. Review MSDSs for Completeness:

Out-of-state manufacturers and suppliers may provide you with inadequate MSDSs because they are unaware of the requirements of the Massachusetts law.

- a. Check for blank spaces or missing information (see MSDS Criteria Sheet, Appendix J). If there is a section on the MSDS that does not apply to that product, the MSDS should state "Not Applicable" or "N/A". If the MSDS claims there is a trade secret, see below.
- b. If an MSDS is incomplete:
 - Return a copy of it to the manufacturer and request a complete one. Use the MSDS Criteria Sheet presented in Appendix J.
 - If the manufacturer does not respond, follow Steps 2 & 3 on pp. 17-18.
 - Keep copies of incomplete MSDSs in a separate file until a response is received.

3. Review MSDSs for Approved Trade Secret Status:

Check that there is a number provided by the Department of Public Health on the MSDS. This number has eight digits and always begins with a 99-. An example would be 99-999-999.

- a. If the MSDS has this number, it is an approved trade secret and the manufacturer may omit from an MSDS the chemical name, common name, CAS number or percent ingredient. All other information must be on the MSDS.
- b. If the MSDS just states "information withheld for proprietary reasons", this does not qualify the product as an approved trade secret. For more information contact the Department of Public Health, Right to Know Program, (617) 727-4942.

4. Keep complete MSDSs in a central location in the workplace.
5. File copies of complete MSDSs with the appropriate regional office of the Department of Environmental Quality Engineering (DEQE). See Appendix E for the DEQE region in which your workplace is located.

C. FILING MSDSs WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING (DEQE)

The following information will help you to comply with the community provisions of the Massachusetts Right to Know Law.

1. Who Must Comply

All Massachusetts employers who use or store hazardous or toxic substances must submit copies of their MSDSs for regulated products to the appropriate regional office of DEQE. This is required of all employers, including those now covered by the OSHA Hazard Communication Standard.

2. What Must be Filed

You must send a copy of all the complete MSDSs for Right to Know substances that you use or store in your workplace.

- MSDSs must be submitted with an Employer Identification Sheet, which must include the following information. It is suggested that this be provided on official letterhead:

Employer Identification Sheet

- Employer's Name
- Workplace Address
- *SIC Code
- Mailing Address
- Contact Person
- Business Telephone
- Emergency Telephone Numbers (work and home)
- Number of Employees.

- * An SIC code is a four-digit number that identifies the activity of a workplace. For assistance in obtaining your SIC code, contact the Department of Labor and Industries (see Appendix A).

3. How to File

You may submit MSDSs separately as they are received, or in groups, but each filing must be accompanied by an Employer Identification Sheet (see above). As you continue to receive new or complete MSDSs, these sheets should be submitted to DEQE. If you are submitting a replacement MSDS for an MSDS already filed, indicate on the sheet that it is a replacement.

4. Where to File

File MSDSs and Employer Identification Sheets with the appropriate DEQE regional office. See the map, Appendix E.

5. What happens to the MSDSs at DEQE

- a. DEQE establishes a file for your company at the regional office.
- b. DEQE reviews your MSDSs for completeness.
- c. Incomplete MSDSs that have not been identified as such by employers will be held separately. DEQE will notify the employers and inform them that the filing contained incomplete MSDSs, and will instruct the employer on how to obtain complete MSDSs from the manufacturer or supplier.
- d. DEQE enters the data on the hazardous and toxic substances stored or used in Massachusetts workplaces into a computer.
- e. DEQE will maintain these records for forty years.

D. RECORDKEEPING AND THE MSDS FILE

1. The Massachusetts Right to Know Law requires that you keep MSDSs on file for thirty years starting from the last day of product use.
2. It is important to document your efforts to obtain MSDSs. You may want to devise a form that compiles some or all of the following information:
 - Product name
 - Manufacturer/supplier name
 - Date request for the MSDS was made
 - Date the MSDS was received
 - Date of second request
 - Date requests for assistance to DLI were made
 - Date incomplete MSDS was returned to manufacturer/ supplier
 - Date revised MSDS was received
 - Date MSDS was filed in a central workplace location
 - Date MSDS was filed with DEQE
3. The type of MSDS recordkeeping system or file you maintain will depend on:
 - a. The number of regulated substances you use.
 - b. The number of manufacturers/suppliers you use.
 - c. How often you change products.
4. You may want to give each product a number that you use in-house to avoid any confusion between two products or chemicals that have similar names.
5. The system may be kept on computer, in conventional files, or on cardfiles cross-referenced to files, but the MSDSs must be located in a central location at each worksite and accessible to employees upon request.

6. MSDS files may be organized by:

- a. product name
- b. manufacturer or supplier's name
- c. workplace location.

7. The system should be developed with the following criteria:

- a. ability for quick information retrieval,
- b. flexibility and capacity to allow the addition of new information,
- c. ease of use.

E. ACCESS TO MATERIAL SAFETY DATA SHEETS (MSDSs)

The Massachusetts Right to Know Law allows employees, community residents and others to obtain copies of the MSDSs on your workplace regulated substances. As the employer, you can set up procedures for responding to your employees' requests for MSDSs to ensure normal work operations. These procedures must be written and be consistent for all employees similarly situated.

Figures 2 and 3 on the following pages will give a full explanation of who has access to the MSDSs, and how and under what conditions they can gain that access.

ACCESS TO MSDS: EMPLOYEES

| Who Can Gain Access | How They Must Request MSDSs | Your Responsibilities to Respond |
|---|---|---|
| <p>1. Employee:</p> <p>An employee is anyone who is, has been, or may be exposed to toxic or hazardous workplace substances and worked for you on or after September 26, 1984. This includes both <u>current</u> and <u>former</u> employees.</p> | <p>Employees must request the MSDS in writing.</p> | <p>You must provide a copy of the MSDS, or proof of diligent effort to obtain the MSDS, within <u>four working days</u> for <u>current</u> employees and within a <u>reasonable</u> period of time for <u>former</u> employees.</p> |
| <p>2. Employee Designated Representative:</p> | | |
| <p>A. Collective Bargaining Agent</p> | <p>Same as above</p> | <p>Same as above</p> |
| <p>B. Treating Physician (upon written employee authorization)</p> | | |
| <p>1. Non-Medical Emergency</p> | <p>Same as above</p> | <p>Same as above</p> |
| <p>2. Medical Emergency:</p> <p>This involves a serious medical condition which poses an imminent threat to an employee's health (see 105 CMR D (3)).</p> <p>Medical personnel can make the request acting under the direct instruction of a physician.</p> | <p>Request may be made orally (personally or by phone) but must be followed by a written request mailed to you within 24 hours.</p> | <p>You must provide the MSDS immediately.</p> |
| <p>3. Trade Secret</p> | <p>Same as above but you may require the treating physician to sign a "Physician's Confidentiality Agreement." The physician must sign it and mail it back to you within 24 hours of receiving it. (See Appendix A)</p> | <p>You must provide the names of the substances in the products if you have access to the information even if they are registered as trade secrets with the Department of Public Health.</p> |
| <p>3. Representative for deceased or legally incapacitated employees:</p> | | |
| <p>This may be a spouse, guardian or executor</p> | <p>MSDS request must be in writing.</p> | <p>Same as Number 1.</p> |

ACCESS TO MSDSs: COMMUNITY RESIDENTS

| Who Can Gain Access and When | How They Must Request MSDSs | Your Responsibilities to Respond |
|--|---|---|
| <p>1. Community Resident:</p> <p>Any resident of the city or town in which your workplace is located may petition to find out what toxic or hazardous substances are being used or stored in your workplace. The resident must have reason to believe the public's health or safety is endangered.</p> | <p>A community resident must file a petition to the Municipal Coordinator of the town or city (usually the fire chief or public health officer). The Municipal Coordinator will notify you that a petition has been filed and will send you either a copy or a summary of it. The Municipal Coordinator may conduct an investigation and make a recommendation whether DEQJ should release an MSDS to the community resident.</p> | <p>Your main responsibility is to have MSDSs on all Right to Know regulated substances filed with DEQJ. DEQJ makes the determination about whether to release a copy of your filed MSDS. You have the opportunity to object to the release of some or all of the MSDSs. Your input is considered in making a determination of which MSDSs are relevant to the petition.</p> |
| <p>2. Municipal Coordinator:</p> <p>Fire chief, or public health official designated by the mayor or town manager.</p> | <p>A written request can be made for copies of the MSDSs of the regulated products in your workplace.</p> | <p>You must send the requested MSDSs to the Municipal Coordinator within four working days.</p> |
| <p>3. Treating Physician of a Community Resident:</p> <p>A. Non-Medical emergency</p> <p>B. Medical Emergency:</p> <p>C. Trade Secret</p> | <p>The request must be made in writing and if you send a confidentiality agreement, the physician must sign it and mail it to you within 24 hours of receipt.</p> | <p>You must provide the MSDS <u>immediately</u>. You may require that the physician sign a "Physician's Confidentiality Agreement".</p> |
| <p>A serious medical condition which poses an imminent threat to the patient's health. Medical personnel can make the request if acting under the direct instruction of a physician.</p> | <p>Request may be made orally (in person or by phone) but must be followed by a written request mailed to you within 24 hours.</p> | <p>Same as above</p> |
| <p>Same as A and B, but the physician must include a written request that "the patient has a serious medical condition which poses an imminent threat to the patient's health and which requires immediate treatment by a physician".</p> | <p>Same as A and B, but the physician must include a written request that "the patient has a serious medical condition which poses an imminent threat to the patient's health and which requires immediate treatment by a physician".</p> | <p>Same as A and B, but you must also release the names of the substances that were previously protected as trade secrets if you are the preparer of the MSDS or if the names of the substances are on the MSDS.</p> |

F. EMPLOYEE RIGHT TO REFUSE WORK

The Massachusetts Right to Know Law allows the employee the right to refuse work with a substance on the Massachusetts Substance List if:

1. The employee requested in writing a copy of the MSDS for a specific product from you, the employer

AND

2. You did not, within four working days, provide the employee with either a copy of an up-to-date and/or complete MSDS or proof of your diligent efforts to obtain the MSDS.

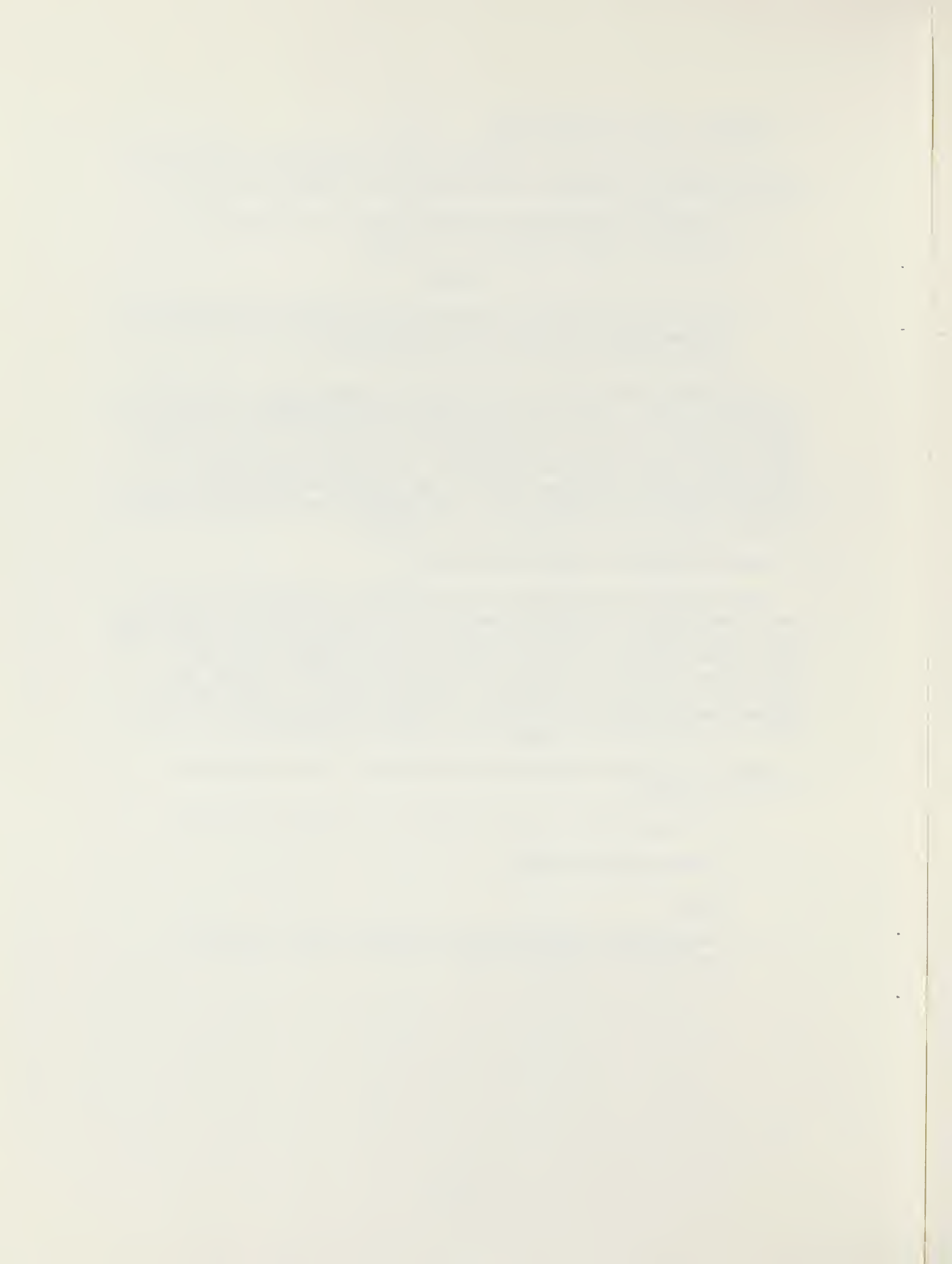
The employee can refuse to work only with that product if the above conditions are met. All other job responsibilities must be fulfilled. The employee is entitled to the same wages and benefits as before. Once you supply the MSDS or proof of diligent efforts to obtain it, the employee must resume working with that substance. The employee may file a complaint with the Department of Labor and Industries (DLI) if he or she is denied the right to refuse work. The Commissioner of DLI will hold a hearing within ten days to resolve the complaint.

G. PUBLIC EMPLOYEES' RIGHT TO REFUSE WORK

Public sector employees who provide essential services for a city, town or subdivision of the Commonwealth do not have this same right. Any job classification considered 'essential' must be determined as such by the senior administrator of a city or town or by the chief officer of a subdivision. You must notify in writing all employees in these job classifications of their "essential services" status. A copy of the written determination must be kept in a central location with the MSDSs. Employees have a right to examine the written determination.

Employees may also appeal the determination to the Commissioner provided that they:

1. Are, have been, or may be exposed to a regulated substance,
2. have requested an MSDS,
and
3. have refused to work with the substance until the MSDS is provided [441 CMR 21.04 (2)].



Material Safety Data Sheet

May be used to comply with
OSHA's Hazard Communication Standard,
29 CFR 1910.1200. Standard must be
consulted for specific requirements.

U.S. Department of Labor

Occupational Safety and Health Administration
(Non-Mandatory Form)
Form Approved
OMB No. 1218-0002



IDENTITY (As Used on Label and List) *

Note: Blank spaces are not permitted. If any item is not applicable, or no information is available, the space must be marked to indicate that.

Section I

Manufacturer's Name

Address (Number, Street, City, State, and Zip Code)

Emergency Telephone Number

Telephone Number for Information

Date Prepared

Signature of Preparer (optional)

Section II — Hazardous Ingredients/Identify Information *

Hazardous Components (Specific Chemical Identity, Common Name(s))

OSHA PEL

ACGIH TLV

Other Limits

% (optional)

Section III — Physical/Chemical Characteristics

Boiling Point

Vapor Pressure (mm Hg)

Vapor Density (Air = 1)

Solubility in Water

Appearance and Odor

Section IV — Fire and Explosion Hazard Data

Flash Point (Minimum Usual)

Extinguishing Media

Special Fire Fighting Procedures

Unusual Fire and Explosion Hazards

(Reproduce locally)

OSHA 174, Sept. 1985

Page 2

• OSHA 174, Sept. 1985

There is no specific space for Chemical Abstract Service (CAS) Number on this particular form, though it may be found in either the Identity Section or Section II - Hazardous Ingredients.

Section V — Reactivity Data

Stability

Unstable

Stable

Conditions to Avoid

Incompatibility (Materials to Avoid)

Hazardous Decomposition or Byproducts

Hazardous Polymerization

May Occur

Will Not Occur

Conditions to Avoid

Section VI — Health Hazard Data

Routes of Entry

Inhalation?

Sum?

Ingestion?

Health Hazards (Acute and Chronic)

Carcinogenicity

NTP?

IARC Monographs?

OSHA Regulations?

Signs and Symptoms of Exposure

Medical Conditions

Generally Aggravated by Exposure

Emergency and First Aid Procedures

Section VII — Precautions for Safe Handling and Use

Steps to Be Taken in Case Material is Released or Spilled

Waste Disposal Method

Precautions to Be Taken in Handling and Storing

Other Precautions

Section VIII — Control Measures

Respiratory Protection (Specify Type)

Ventilation

Local Exhaust

Mechanical (General)

Special

Other

Protective Gloves

Other Protective Clothing or Equipment

Eye Protection

Work Hygiene Practices

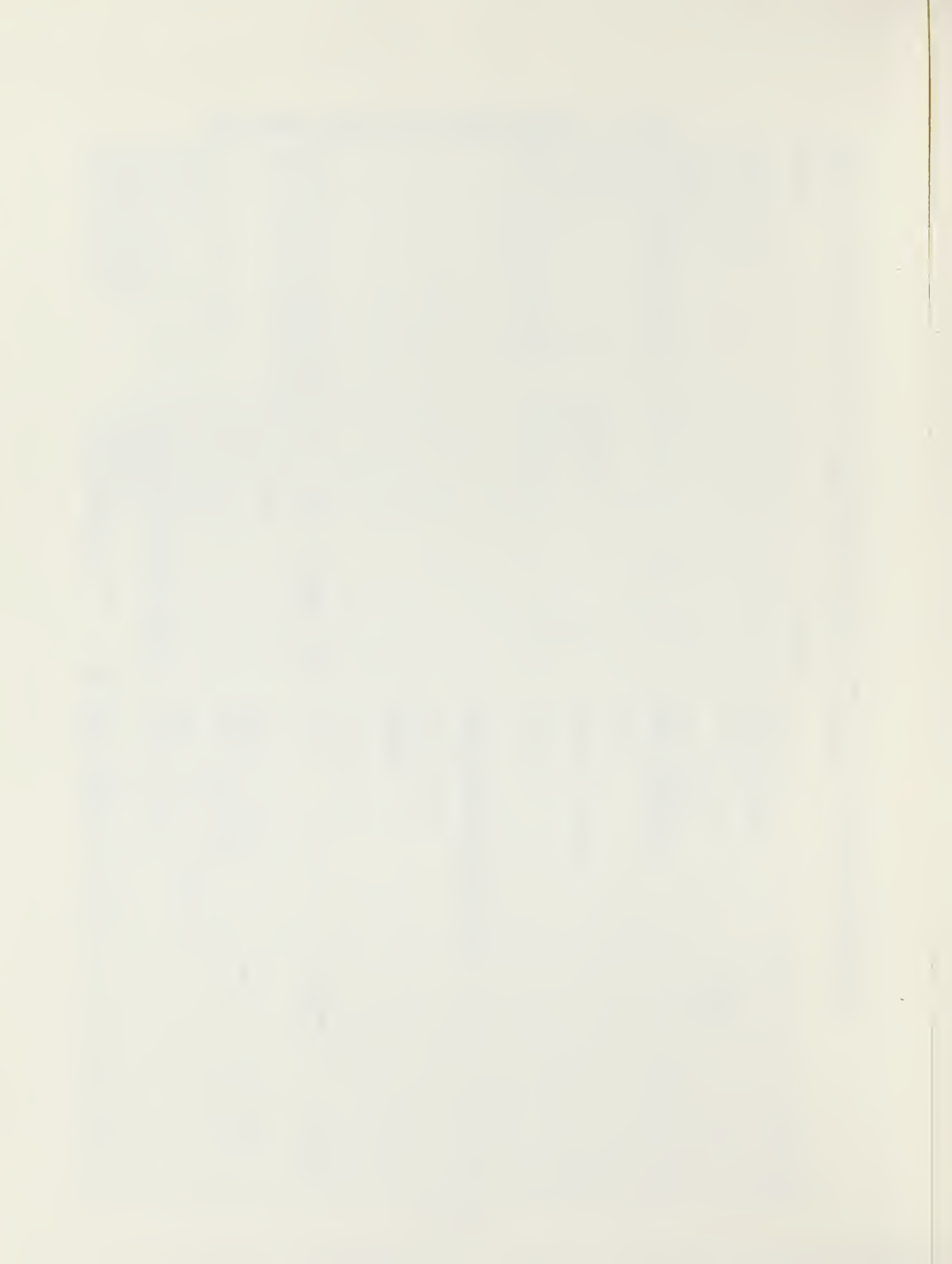
Page 2

• OSHA 174, Sept. 1985

There is no specific space for Chemical Abstract Service (CAS) Number on this particular form, though it may be found in either the Identity Section or Section II - Hazardous Ingredients.

Figure 4: SAMPLE MATERIAL SAFETY DATA SHEET (MSDS)

26



HELP MODULE 4: CONTAINER LABELING

Labeling is a very important part of preventing job accidents. The label on a container provides an immediate source of information. It may identify the chemicals in the product and some of its hazards.

Under the Right to Know Law, there are labeling requirements for containers of substances on the Massachusetts Substance List (MSL). The following is a summary of those requirements and a list of exempt containers.

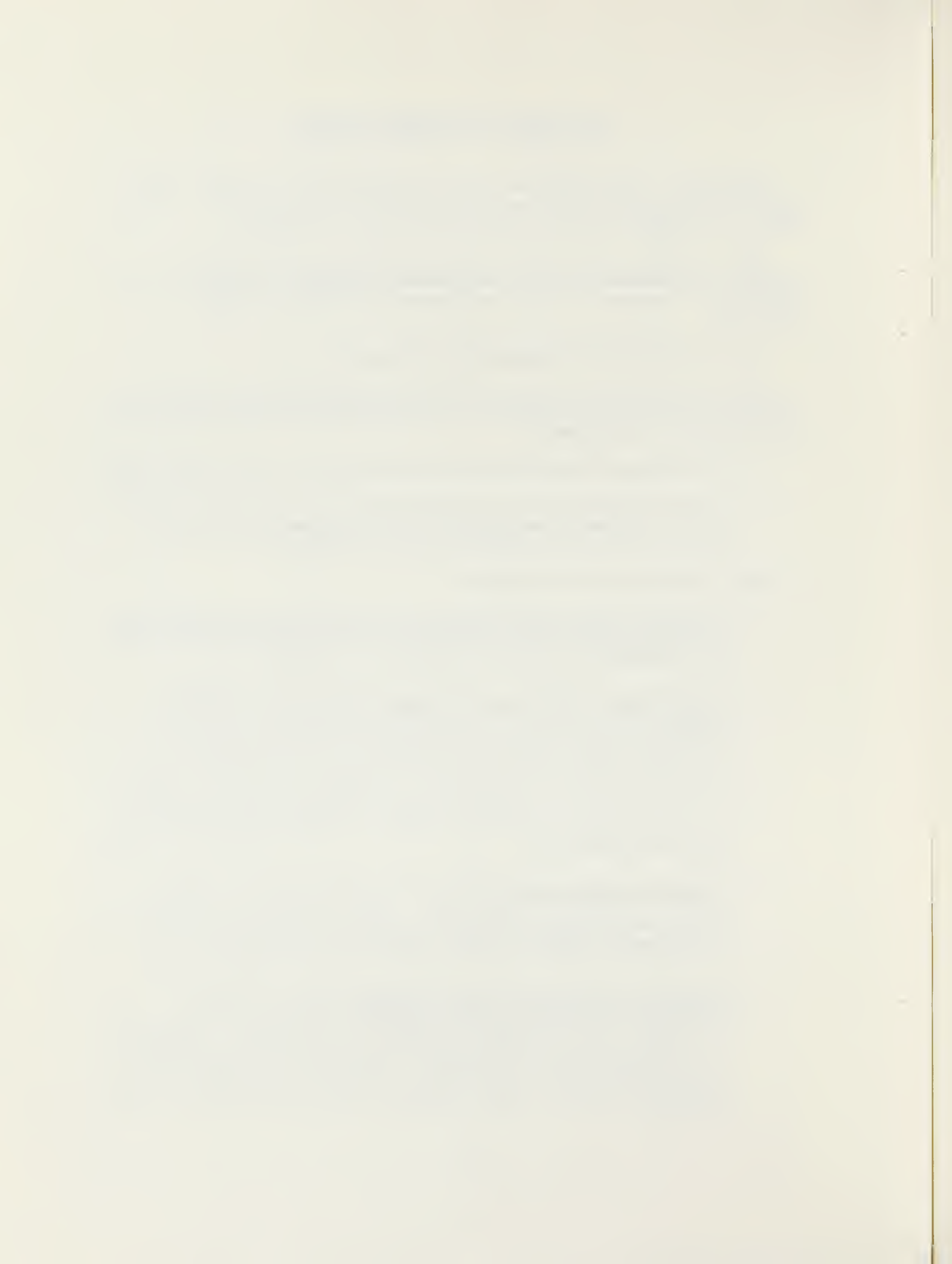
A. WHAT ARE THE LABELING REQUIREMENTS OF THE LAW?

The Right to Know Law requires that all containers of MSL substances that meet the following conditions be labeled with the chemical name(s) of the substances or ingredients:

1. The containers that hold more than one gallon or five pounds; and
2. The MSL substances are in concentrations of 1% or more, or 2% or more if present as an impurity, or 1 ppm (part per million) or more if an "extraordinarily hazardous substance".

B. WHICH CONTAINERS MUST BE LABELED?

1. Containers with a volume greater than one gallon or a weight more than five pounds must be labeled with the chemical name(s) of the MSL substance or the MSL ingredients of a mixture.
2. Containers of chemicals greater than five gallons or thirty pounds, which are listed in the NFPA (National Fire Protection Association) Code 49, have additional requirements. The appropriate NFPA label must be affixed to the containers along with the names of the chemicals. Chemical substances with NFPA codes are noted on the Massachusetts Substance List (MSL) with a (5) or (6) after the chemical name. For additional information on the specific codes, you can obtain the NFPA Hazardous Material Book (see Appendix G).
3. Pipes and piping systems must also be labeled with the chemical name(s) or chemical ingredients. Place the labels at points where employee exposure may occur during normal work procedures. Labels may be placed at pumps, spigots, and valves, etc. If applicable, the NFPA label must also be on the piping systems.
4. Vessels, fixed tanks or other containers must be labeled. Containers that regularly hold different chemical substances must be labeled with the chemical name(s) of the contents. Placards or signs may be used to identify the different chemical products in the containers at a given time. Again, if they contain more than five gallons or thirty pounds, the NFPA label must be on the container.



C. WHICH CONTAINERS ARE EXEMPT FROM THE LABELING REQUIREMENTS?

The Right to Know labeling requirements do not apply to certain containers. These exemptions apply only to labeling requirements. You are still required to obtain MSDSs for these products, and to train employees on the hazards. The following containers are exempt from labeling requirements:

1. Containers that are already properly labeled in accordance with the federal regulations of the:
 - a. Department of Transportation (D.O.T.),
 - b. Food, Drug & Cosmetic Act (F.D.A.),
 - c. Atomic Energy Act (A.E.A.),
 - d. Federal Insecticide, Fungicide, and Rodenticide Act (F.I.F.R.A.).
2. Small containers with a volume of less than or equal to one gallon or a weight less than or equal to five pounds.
3. Transfer containers if the container is:
 - a. 10 gallons or less, and
 - b. for immediate use by the employee, and
 - c. used by the employee doing the transferring.

D. OTHER LABELING REQUIREMENTS

The specific regulations pertaining to container labeling are summarized in the following paragraphs:

1. All labels must be prominently located on the container in its upright or usual position for use. Labels must be legible and shall be in English. They shall be in bold face letters, on a distinctly contrasting background, and weatherproof (if necessary). The type on labels shall comply with the following size requirements:

| <u>Size of container</u> | <u>Label lettering size</u> |
|-----------------------------|-----------------------------|
| over 1 gallon or 5 lbs. | 3/16 inch |
| over 5 gallons or 30 lbs. | 1/4 inch |
| over 10 gallons or 100 lbs. | 1/2 inch |

Labeling can be accomplished by stencilling, with pre-made labels, or other permanent method. You can make the labels yourself or order them from label manufacturers. See Figure 5 on the next page for examples of the type size requirements for the letters.

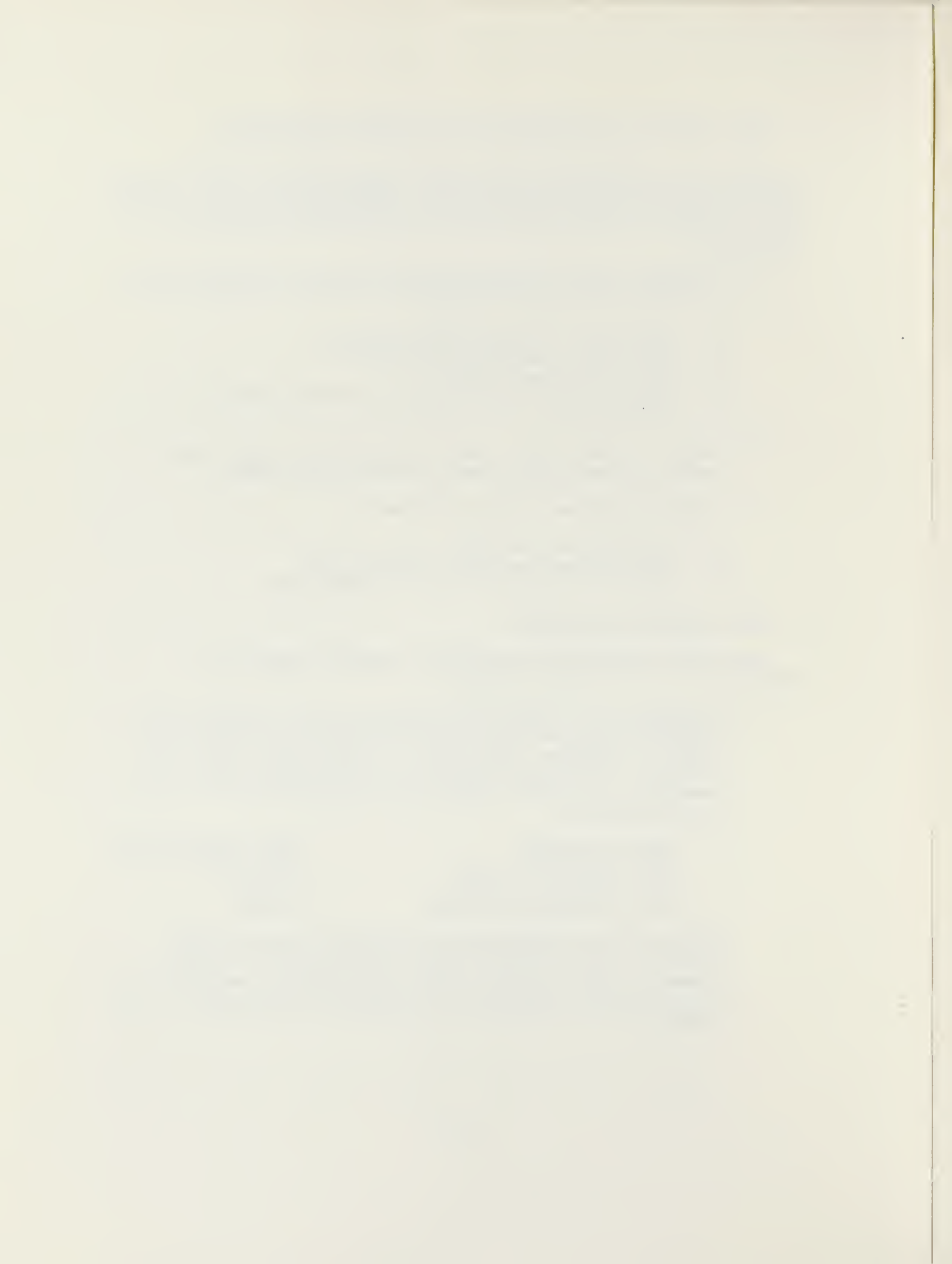



Figure 5: SAMPLE LABELS

| <u>Container Size</u> | <u>Label</u> | <u>Type Size</u> |
|----------------------------------|----------------|----------------------|
| Over 1 gallon or 5 pounds | BENZENE | 3/16" boldface |
| Over 5 gallons or 30 pounds | BENZENE | 1/4" boldface |
| Over 10 gallons or 100 pounds | BENZENE | 1/2" boldface |

2. NEPA Labeling: As previously noted, some containers must be additionally labeled with the appropriate NEPA label. The NEPA label is a code giving the hazards of the materials, especially during fire or related emergency conditions. The familiar four-section, diamond-shaped label or placard indicates fire, health, reactivity and other specific hazards. NEPA diamond labels are available from label manufacturers. Figure 6 explains the codes on the NEPA label diamond:

Figure 6: NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) LABEL

| <u>Fire Hazard (Red)</u> | |
|---|--|
| 0 - Will not burn | |
| 1 - Will ignite if preheated | |
| 2 - Will ignite if moderately heated | |
| 3 - Will ignite at most ambient conditions | |
| 4 - Burns readily at ambient conditions | |
| | |
| <u>Health Hazard (Blue)</u> | <u>Reactivity (Yellow)</u> |
| 0 - No more than ordinary combustibile hazards in a fire | 0 - Stable and not reactive with water |
| 1 - Slightly hazardous | 1 - Unstable if heated |
| 2 - Hazardous | 2 - Violent chemical change |
| 3 - Extreme danger | 3 - Shock and heat may detonate |
| 4 - Deadly | 4 - May detonate |
| | |
| <u>Specific Hazard</u> | |
| OXY | Oxidizer |
| ACID | Acid |
| ALK | Alkali |
| COR | Corrosive |
| W | Use No Water |
|  | Radiation Hazard |

3. Products Approved as "Trade Secrets" may not have to have the chemical names of their ingredients on the label of the container. However, the product must have a code number assigned to it by the Department of Public Health. This same code number must be on the MSDS and the product label so the appropriate MSDS stays linked to the product container.

If any of the ingredients in the product are identified on the MSL as a carcinogen, mutagen, teratogen or neurotoxin, the label must have a "C", "M", "T" or "N", respectively, to indicate these hazards. (For more information on trade secrets, see p. 19).

If applicable, the NFPA label must also be on these containers.

Note: Many chemical products you purchase or use may already have been labeled by the manufacturer. You should be aware that the labeling standards used by the manufacturer may differ from those of the Massachusetts Right to Know Law. It is your responsibility to check that the labels satisfy the legal criteria. If they do not, you must label the containers properly.

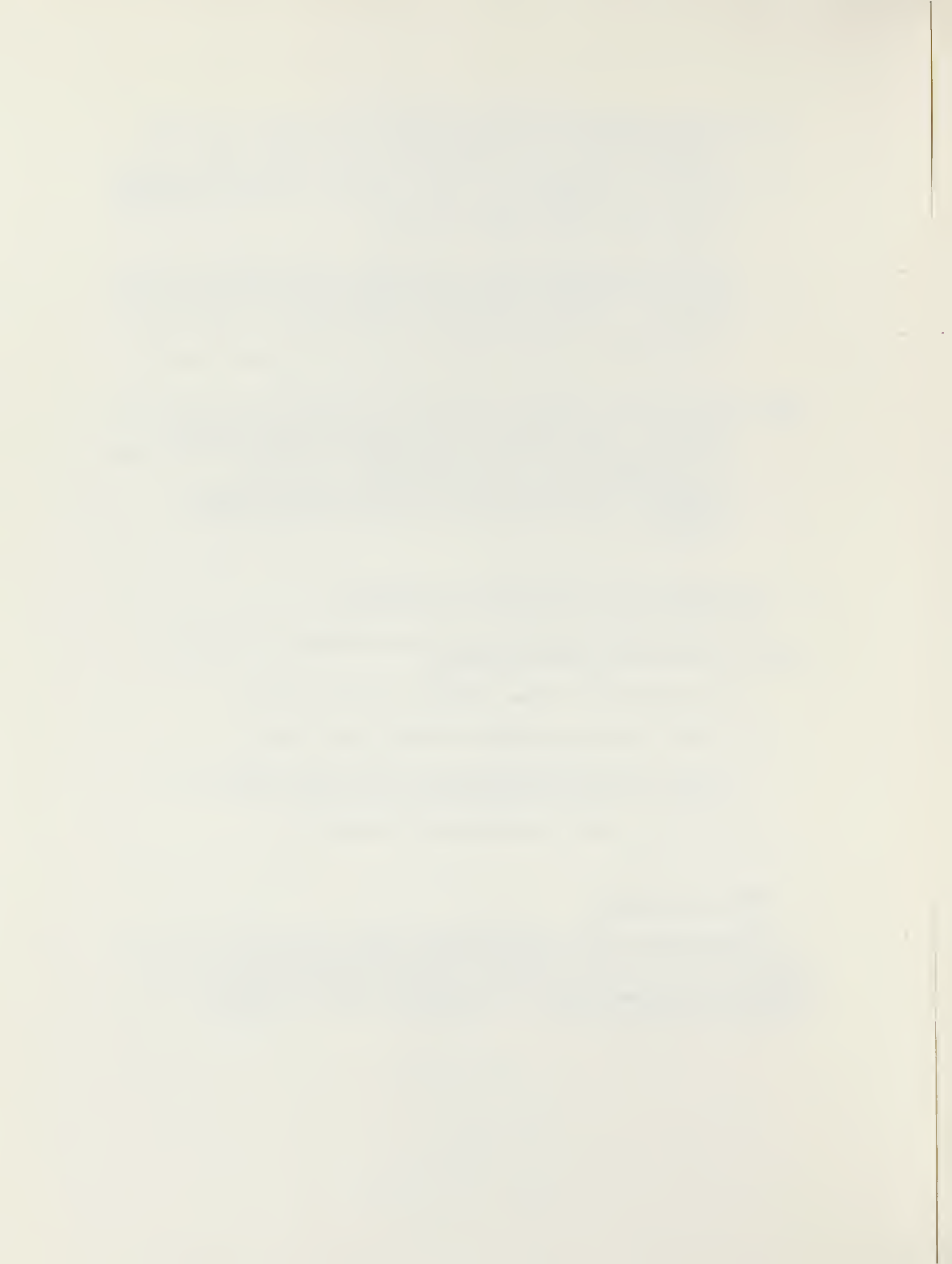
E. INFORMATION THAT YOU SHOULD FIND ON THE LABELS

Labels may provide you with the following information which can be useful in your Right to Know activities:

1. the manufacturer's name, address, and phone number
2. chemical names, ingredients, trade or product names
3. hazard warnings (required under the OSHA Hazard Communication Standard but not the Massachusetts Right to Know Law)
4. NFPA fire, health, and explosion information

F. FURTHER INFORMATION

The Department of Labor and Industries (DLI) can provide you with the NFPA codes for those pure chemicals requiring the NFPA label. In addition, DLI can provide you with a listing of label manufacturers from whom you may purchase labels for containers of toxic or hazardous substances (see Appendix A).



HELP MODULE 5: EMPLOYEE TRAINING

Employee training is a very important component of the Massachusetts Right to Know (RTK) Law. It is an important method for providing information about toxic substances to employees.

This module consists of three parts:

- A. A brief outline of the training requirements under the law.
- B. A sample curriculum.
- C. Suggestions on how to design the best possible training for employees.

A. OUTLINE OF TRAINING REQUIREMENTS

(These requirements are given in the law, Chapter 111F, section 15 and in the regulations, 441 CMR 21.07.)

- TRAINING:
- In nontechnical language
 - By a competent in-house instructor (or third party trainer registered with the Department of Labor and Industries)
 - During employees' normal working hours
 - At no cost to employees
- WHEN:
- Annually for all employees who are or may be exposed under normal working conditions or foreseeable emergencies to any toxic or hazardous substance in the workplace
 - Within thirty days of employment for new employees

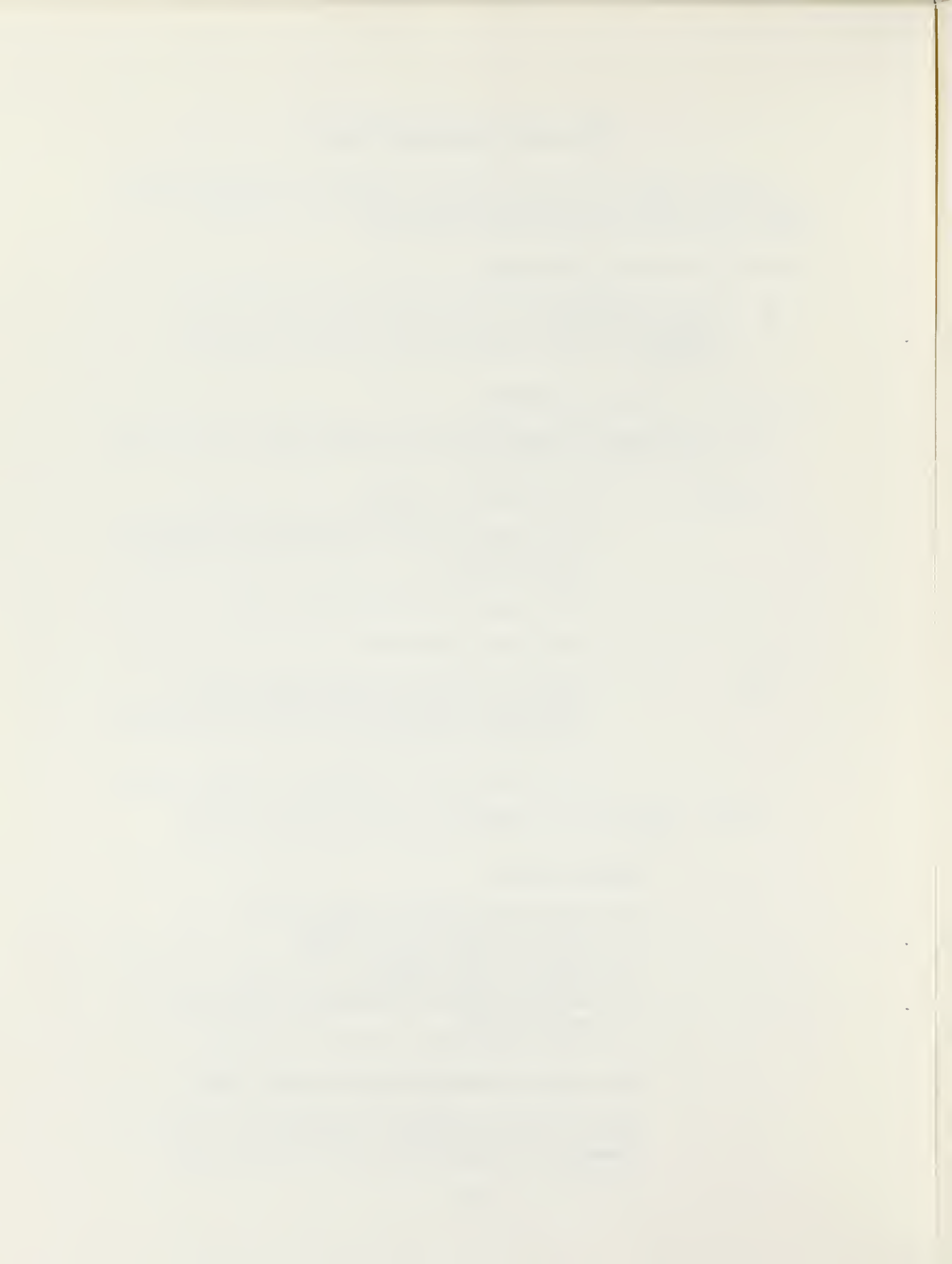
CONTENT: The following information is derived from the law and regulations and must be included in the RTK training:

1. Employee Rights

- a. Right to Know Workplace Notice posted
- b. Containers appropriately labeled
- c. Right to request copies of MSDSs
- d. Instruction and training
- e. Refusal to work if MSDS is not provided
- f. Protection against discrimination, discipline and discharge
- g. Filing of complaints, hearings and appeals

2. How to Read A Material Safety Data Sheet (MSDS)

Each section of an MSDS must be explained. Often one MSDS is used as an example. The MSDS can be of a commonly used material and should be accurate and complete.



3. Explanation of Specific Workplace Substances

- a. Health and safety hazards
- b. Proper handling procedures
- c. Appropriate use of protective clothing and equipment
- d. Specific labeling requirements for carcinogens, mutagens, teratogens and neurotoxins

RECORDKEEPING: Employers must maintain a record of training that includes the following information:

1. A description of the training or instruction given,
2. The date(s) the training was given,
3. The names of the employees who attended and the name of the instructor or trainer.

Records should be kept for the duration of employment and must be made available (upon request) to the Commissioner of Labor and Industries or the Commissioner's representative.

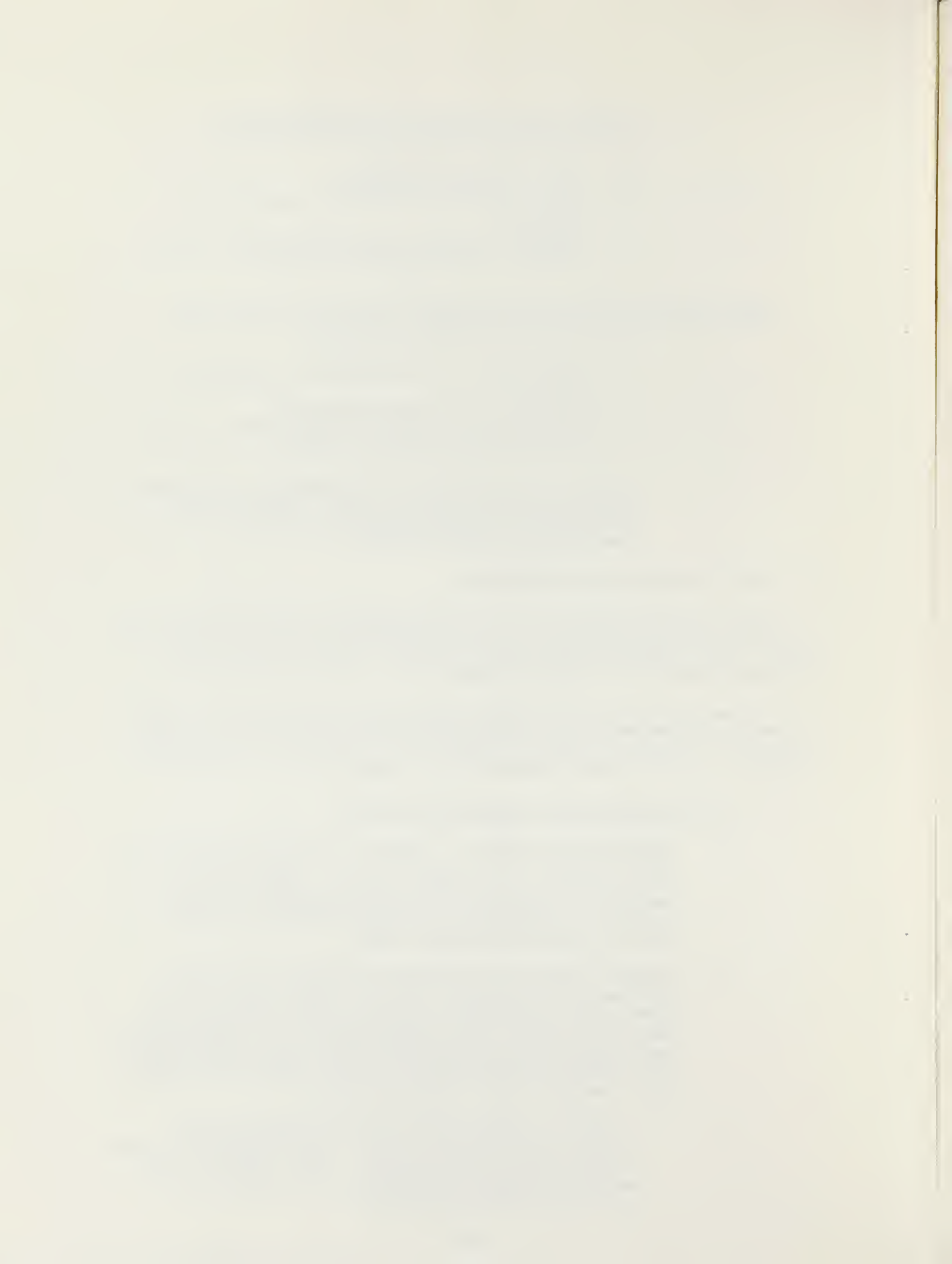
B. RIGHT TO KNOW TRAINING CURRICULUM

This part of the module will further elaborate on the outline of training requirements mandated under the Massachusetts Right To Know (RTK) Law. If the training follows this curriculum, you will satisfy your responsibilities for training employees.

The employees who must be trained include all those who are or may be exposed to a substance on the Massachusetts Substance List (MSL) during the course of normal working conditions or in the event of a foreseeable emergency. This includes supervisors and foremen.

1. Review of Employees' Rights Under the Law

- a. Workplace Notice Posted: Employees should be informed that a RTK Workplace Notice detailing their rights must be in a central location. The notice must be in English and in the language(s) of non-English speaking employees. These notices are available free of charge from the Department of Labor and Industries (see pp. 8-9).
- b. Containers appropriately labeled: Explain the labeling requirements of the law and how the labels can be used to request the correct MSDS. If any of your containers have labels that comply with the regulations of the Department of Transportation or certain federal acts (e.g., Atomic Energy Act) or NFPA (National Fire Protection Association) hazard labels, explain these labeling systems.
 - If you use a substance that is an approved trade secret, the label must provide a code number if it does not give the chemical name(s). Your training should explain how the code number links the label to the appropriate MSDS (see p. 29).



- If any of the trade secret substances are Carcinogens, Teratogens, Mutagens or Neurotoxins, the labels must have a code number and a "C, T, M, or N". Again, these terms and the labeling system must be fully explained to employees.

[For more information on labeling system requirements, see Help Module 4, p. 27]

- c. Right to request copies of MSDS: Employees should be informed that they can obtain copies of MSDSs for any workplace product covered under the law by making a written request. As the employer, you may set up reasonable procedures for obtaining MSDSs so that normal work operations are not interrupted. These procedures must be in written form and fully explained during the training.
- d. Instruction and training: Make sure you inform employees of their right to initial and annual training (see outline for who must be trained, p. 31).
- e. Refusal to work if MSDS is not provided: Inform employees that they can refuse to work with a substance on the Massachusetts Substance List (MSL) if they have submitted a request in writing for the MSDS on that substance and you, the employer, fail within four days to either provide the MSDS or to show proof of "diligent effort" to obtain the MSDS. The employee can only refuse to work with that substance, and must resume working with it once the MSDS or proof of diligent effort is provided. (For information on public employees, see Hlep Module 3, p. 25)
- f. Protection against discrimination, discipline and discharge: Inform employees that they can file a complaint with the Commissioner of DLI within 180 days regarding any action (discipline, discrimination or discharge) taken against them for exercising their rights under the law. The RTK Notice explains this part but does not provide the following information on hearings and appeals.
- g. Filing complaints, hearings and appeals: Inform employees that they may file a complaint if they believe that their employer has violated the law by not providing training, adequate labeling, etc. (section 3) or if they feel they have been personally harassed for exercising their rights under the law (section 13).

Under section 3 of the law (general violation), the employee may file a written complaint or may telephone and follow-up with a letter to the Department of Labor and Industries (see Appendix A).

- The Commissioner has 120 days to decide whether to initiate an investigation.
- If an investigation is initiated, the Commissioner must immediately notify the employer or manufacturer by certified mail.

- The employer or manufacturer has 20 days to respond to the notice.
- If there is a finding of no violation, the employer or manufacturer must be notified within 10 days.
- If there is a finding of a violation, the employer or manufacturer must be notified immediately. The Commissioner may use persuasion or issue a fine or penalty to correct the situation.

Under section 13 of the law (protection against personal discrimination for exercising one's rights), the employee must file a written complaint and at the same time send a copy of the complaint, by certified mail, to the employer.

- If the Commissioner determines that there is insufficient cause to believe that a violation of the employee's rights has occurred, the employee may request a hearing within 10 days of being notified of the Commissioner's determination.
- If the Commissioner determines that there is cause to believe a violation of the employee's rights has occurred, a hearing will be held.
- Decisions of the Commissioner may be appealed by the employee or employer in the Superior Court for the county in which the employer's workplace is located.
- If the employee files a complaint regarding the right to refuse to work with a substance, a hearing will be held by the Commissioner within 10 days.

2. How to Read a Material Safety Data Sheet (MSDS) - In this part of the training the following parts of an MSDS must be covered:

- a. Name, address, emergency telephone number
- b. Preparer's name, address and date
- c. List of ingredients and percentages
- d. Health information
- e. Occupational exposure limits
- f. First aid procedures
- g. Physical data
- h. Fire and explosion data
- i. Reactivity
- j. Employee protection
- k. Other regulatory controls.

The purpose of this part of the training is to help employees to know and understand the information provided on an MSDS. It may be possible to just go over one particular Material Safety Data Sheet (MSDS) and fulfill this part of the RTK training. The MSDS you choose, though, should be complete (and accurate) and on a product that is familiar to the employees. If the MSDS you choose is lacking some information, such as health hazard information, you will have to supplement the training. How you do this is up to you. You can use another MSDS that has a complete health hazard section or use a slide/tape show or video that reviews all sections of an MSDS. Another useful resource is the booklet Understanding MSDSs, which reviews in non-technical language all information provided by MSDSs. (It is available from the Division of Occupational Hygiene, see Appendix A.)

3. Specific Training on Workplace Hazards

This is the most important aspect of the Right to Know training because it will inform employees of the specific hazards of the substances used in their workplace. It is also mandatory to cover the proper handling procedures, and to provide an explanation on the use of protective clothing and equipment.

a. Can chemicals be grouped together?

Whenever possible, employees should be trained on each and every toxic or hazardous substance they are, or may be, exposed to under normal working conditions. (It is important to note that "normal working conditions" includes foreseeable emergencies). In many instances, however, a workplace may contain so many chemicals that training on the hazards of each and every substance would not be possible. In these situations, the training provisions of the RTK Law allow for training to be "generic to the extent appropriate and related to the job". This means that you may want to group substances and train on the hazardous properties of each grouping. One way to group substances is by their hazardous properties (e.g., caustic, flammable, toxic through skin absorption, etc.). Another method is to group substances by their use in the workplace (e.g., cleaners, welding, etc.).

Note of Caution: Do not group extremely toxic or hazardous chemicals with a group of less dangerous substances. All extremely hazardous chemicals, (i.e., those designated as carcinogens, neurotoxins, mutagens or teratogens), should always be dealt with individually in the training program.

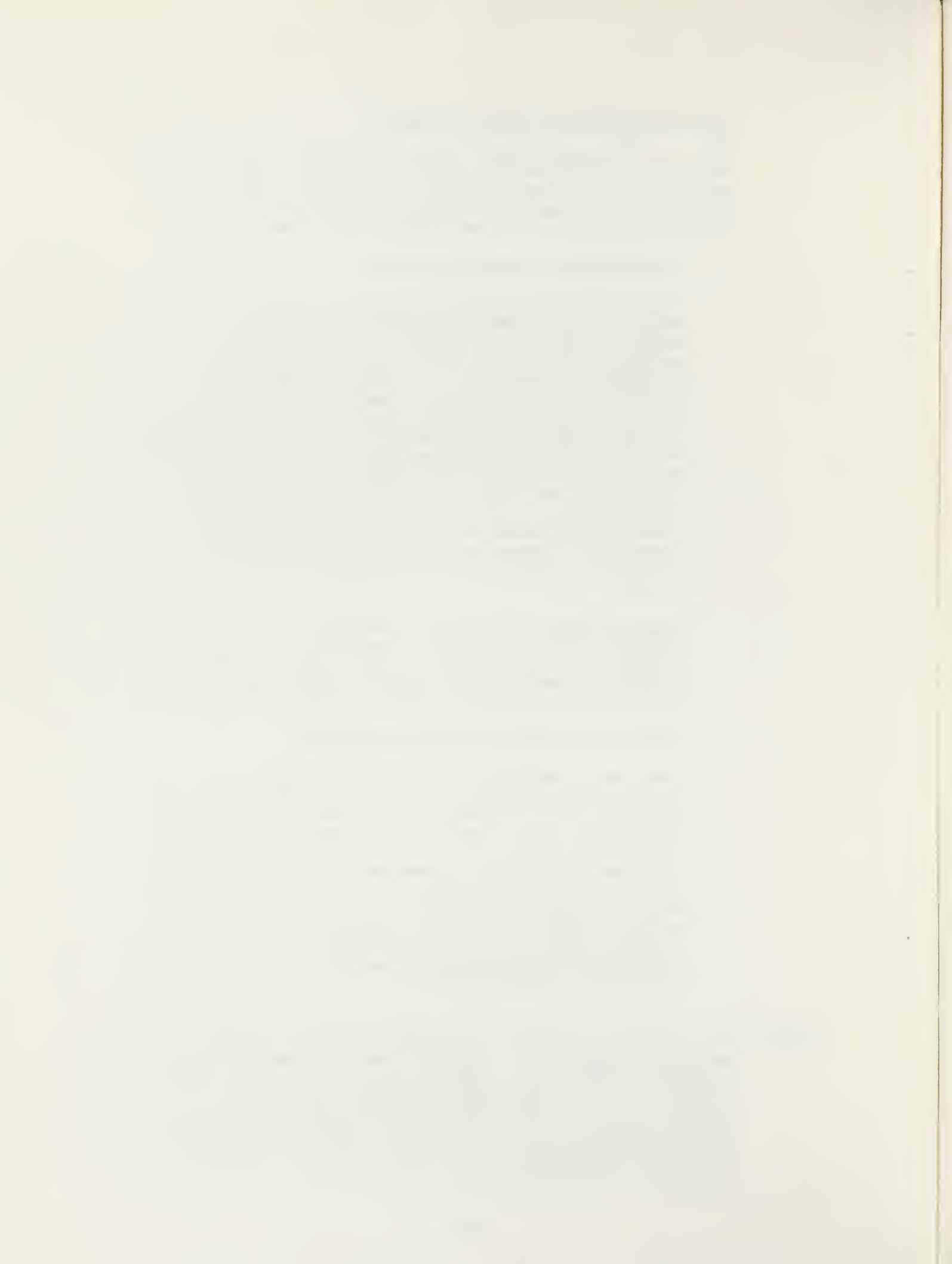
b. Should all employees be trained together?

There are no requirements in the law or regulations on how you set up the training. If you have a small number of employees and all are exposed to all of the substances used in the workplace, a single training session could cover the information on all of the chemicals. If you have a large workforce you may want to consider breaking into separate training groups of manageable size. If different groups of workers encounter different chemical hazards, they can be trained together on the first two parts of the training (employee rights and reading an MSDS) and then be separated into smaller "exposure" groups for the third part of the training (specific hazards).

* * * * *

Example: Your workplace consists of a painting shop and a grounds maintenance department. Workers in the two areas are exposed to different hazards. Your training program could consist of two sessions. At the first session, everyone would attend and the session and learn about their rights under the law and how to read an MSDS. For the second session, workers would be divided into two groups with each group being trained on the hazards that are unique to their job.

* * * * *



c. How should information be presented?

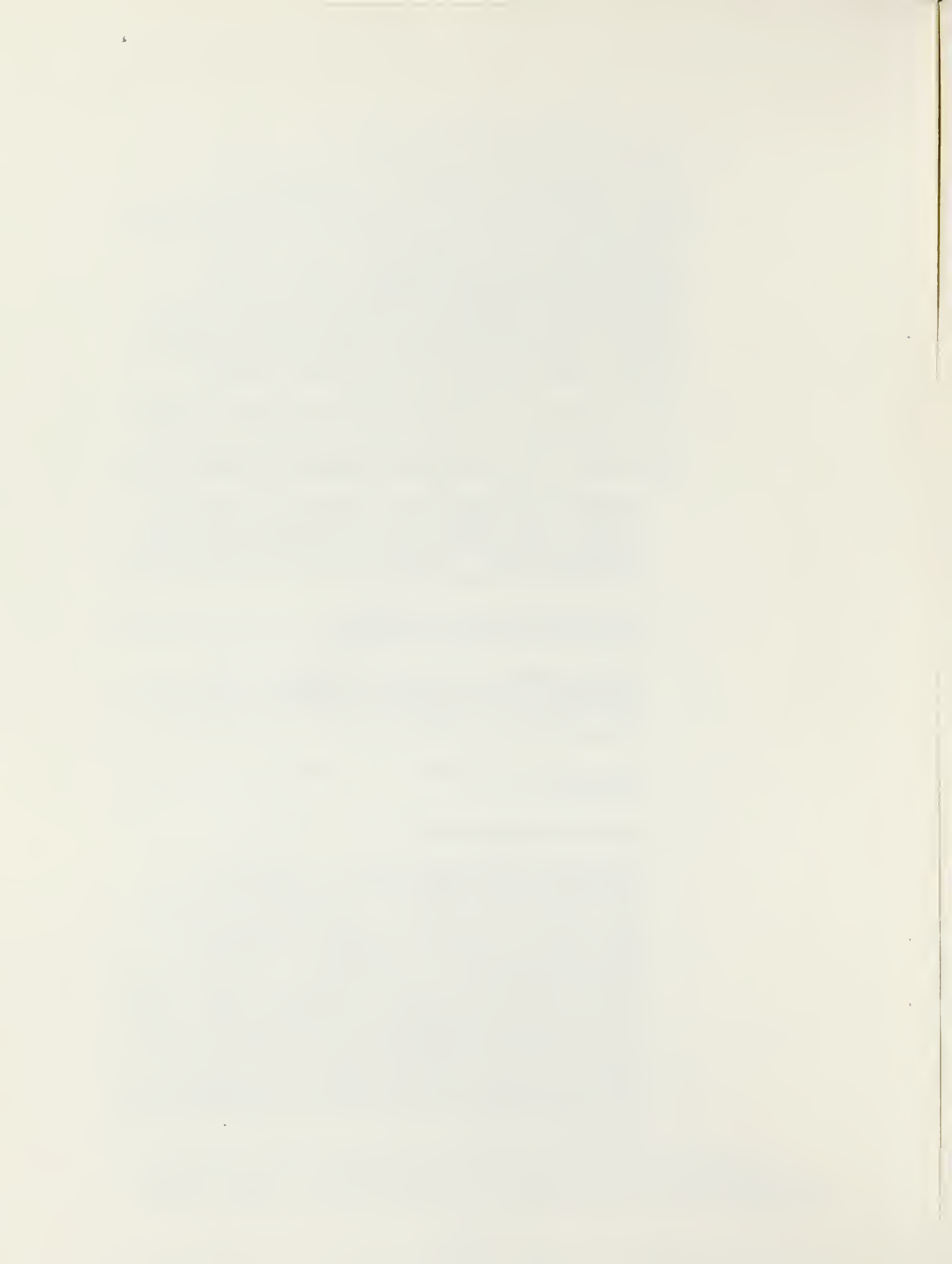
Another important consideration when training on the specific hazards is how to present the information. The law does allow the training to consist of only written materials if everyone can read; however, it is quite difficult to do this effectively. It is recommended that you use a combination of educational methods, such as written materials, group presentation, and an actual walk-through of the workplace to discuss the location of hazards, their effects and how to prevent harm. (See Learning Methods, p. 38). In general, the more chances employees have to ask questions and get answers, the better the training.

d. What topics must be covered on specific workplace hazards?

The following list provides you with the topics which you must include in your training on specific workplace hazards:

- Chemical and common names: Probably the best way to present this information is to compile a list of the common product names with the corresponding chemical ingredient names. Different lists can be compiled for the different exposure groups.
- Location of hazardous substances: This can be included on your written list of chemicals.
- Health effects of hazardous substances: This information can be obtained by reviewing the MSDSs for each hazardous or toxic substance or by using other references (see Appendix G).
- First aid and antidotes: This information is found on the MSDSs
- Proper and Safe Handling: See the MSDSs
- Personal protective equipment: If engineering controls are not possible, personal protective equipment may be required. In these situations, this part of the training must provide orientation and explanation of protective clothing and equipment so employees can safely handle and use the toxic or hazardous substances in the workplace. Since different employees often use different substances, again you may want to break the employees into smaller groups. If employees must use respirators, for instance, and have not been fit-tested, then using only written materials may not suffice. This part of the training must include information on how and when to use the personal protective equipment and how to correctly maintain and store it.

If you would like technical assistance on designing and presenting your training, consider the Right to Know Consultation Program, Appendix K, p. 72



C. SUGGESTIONS FOR A MORE EFFECTIVE TRAINING PROGRAM

The following suggestions are intended to help ensure that a Right To Know (RTK) training is as effective as it can be. These are not requirements, but can serve as an aid in planning and conducting the training.

1. Involve Employees and Direct Supervisors in the Planning of the Training:

Employees and their direct supervisors know first-hand the safety and health problems in the workplace. By involving employees, the RTK training program will more likely reflect their concerns and be well-received. Health and safety committees and employee/management committees may provide an already existing structure. If they do not exist, a planning committee can be set up to work on a training program.

2. Make the RTK Training Part of the Overall Health and Safety Program:

The RTK training will inform employees of the hazards of certain substances and how to properly handle and use these substances. The whole process of planning and conducting the training provides an opportunity to review work practices, train employees on the importance and maintenance of personal protective equipment and reassess workplace hazards in general. You may also discover that certain chemicals are more dangerous than you had previously thought. This can lead to changing a work process, using better ventilation exhaust or even finding a safer chemical that can be substituted.

3. Plan Your RTK Training:

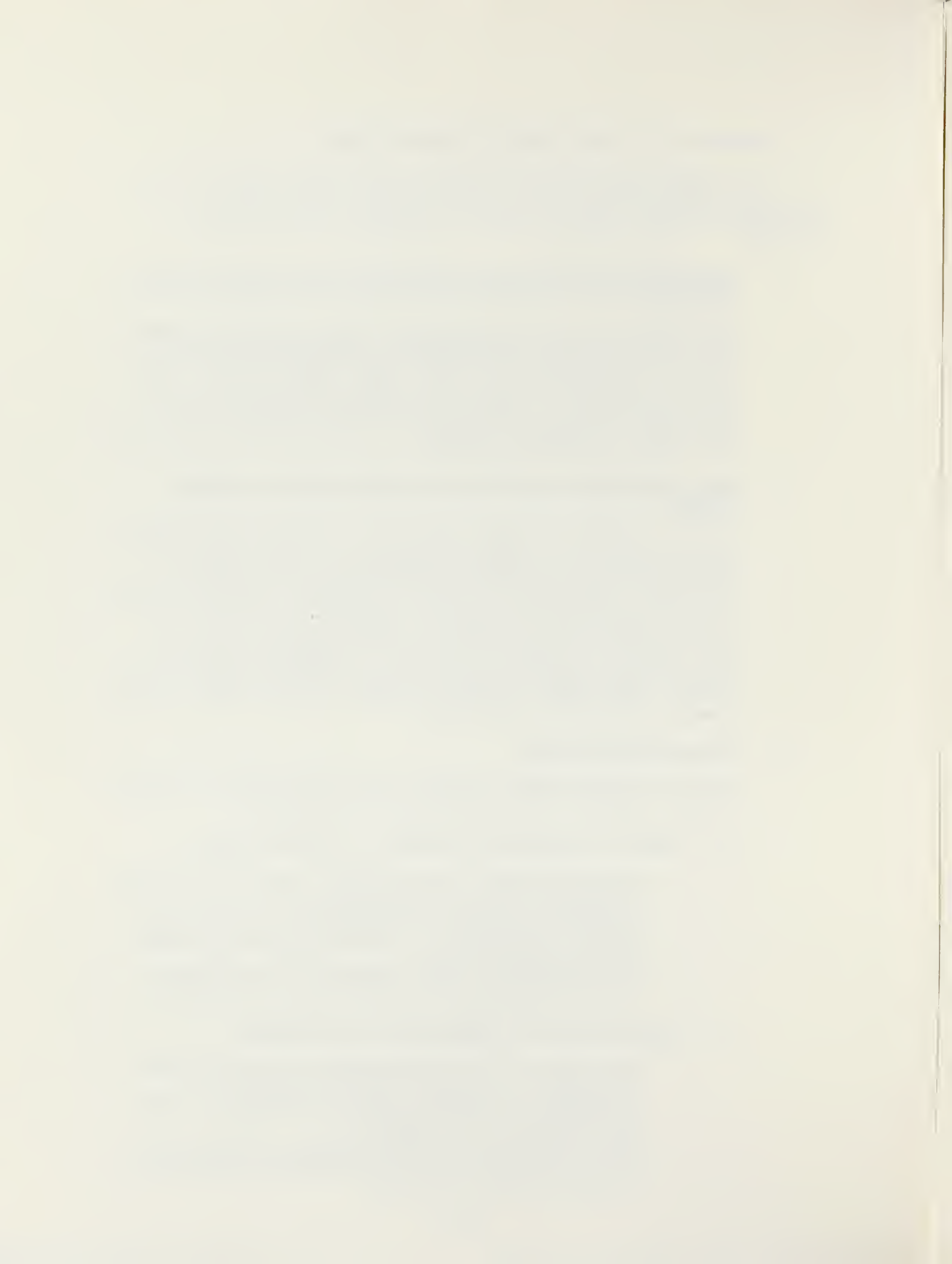
Use the following planning steps to ensure that your RTK training is well thought out and accomplishes its purpose(s).

a. Perform a preliminary assessment of chemical hazards

- Review all MSDSs in the workplace. Focus on the health information and safety precautions.
- If helpful, separate the chemicals into generic groups based on similarities in health hazards, use at work, physical hazards, etc.
- List chemicals by their location in the workplace so you know where hazards are most likely to be found.

b. Decide who will be responsible for the training

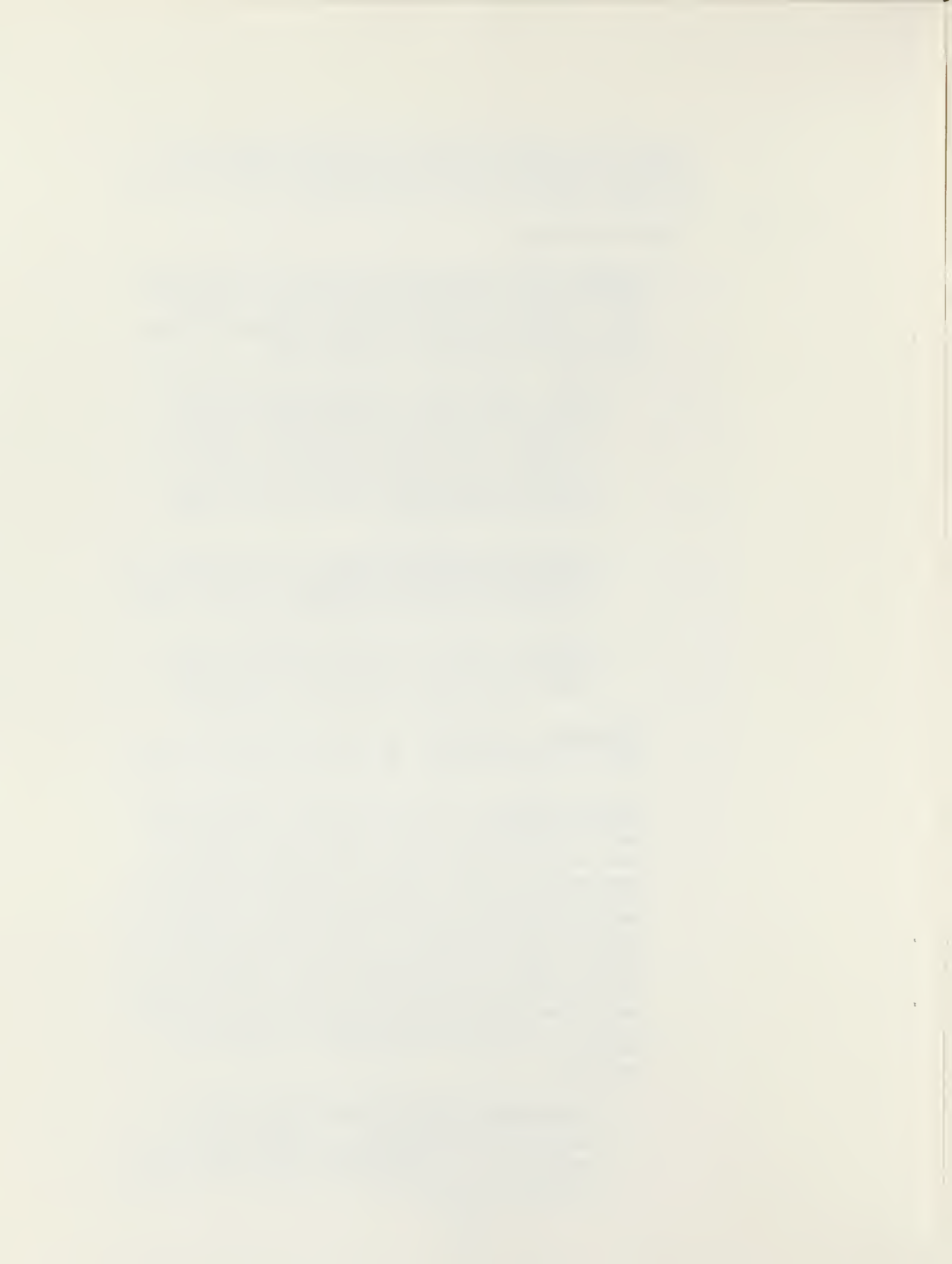
- Will you do the training in-house or hire an outside consultant? A list of registered third party instructors is available from the Department of Labor and Industries (see Appendix A).
- Will one person do all the training of employees, or will the trainer first train supervisors and then the supervisors train employees?



The answers to these questions will probably depend on the number of employees and shifts, the funds available for training, the skills of your staff, and the number and types of chemical hazards found in your workplace.

c. Design the training

- Content: Many topics must be included in a Right to Know training, but priorities must be set so that more time is spent on the most important items. Some questions that you (with help from involved employees and supervisors) may have to answer are:
 - * MSDSs - Should time be spent on many different MSDSs or are there a few substances that are extremely hazardous and require more employee training? (All hazardous substances should be covered in the training either directly by reviewing their MSDSs or indirectly by linking them to substances with similar hazards whose MSDSs will be reviewed.)
 - * Personal protective equipment - Do some jobs, despite good engineering controls, require the use of personal protective equipment? If so, is the equipment used and maintained properly?
 - * Labeling - Have you used a new labeling system and/or labeled more substances recently that should be more fully explained to employees?
- Resources: You may want to acquire audio/visual materials and equipment, the use of a room of adequate size, written materials, etc. (see Appendix G).
- Learning Methods: Usually the more ways messages are conveyed, the better is the response. Your Right to Know training will be more effective if it uses more than one educational method. One example may be a combination of a short lecture, slide/tape show and written materials. A follow-up session is important to answer questions employees may have after they have read the written materials. Other educational methods include films, role plays (where participants play roles and enact a situation that may be similar to real working conditions), small and large group discussions and problem-solving exercises (where participants work together to solve problems similar to ones they may face on their jobs). The methods you choose will depend on:
 - * The employees who are being trained - What is their educational level? Are they fluent in English?, etc. The answers to these questions may indicate that written materials alone are not as useful as a slide/tape show followed by a question and answer session.



* The content of the training - Is the information highly technical and does it involve new concepts? Does it focus on safe work practices? The more technical the information the more ways you will need to convey the message. Any written materials that are used must be in non-technical language. If safe work practices are a part of the training, it may make sense to do part of the training in the work area.

* Other objectives - Do employees need to know when and how to use personal protective equipment? A training that includes this objective should have a "hands-on" component. Employees should have an opportunity to practice putting on the equipment and maintaining it.

d. Test out your training

Test your training out on a small number of workers and staff if you have many employees to train. This will give you a chance to do a "dry-run" and to improve the program before training everyone.

e. Schedule your training

f. Conduct your training

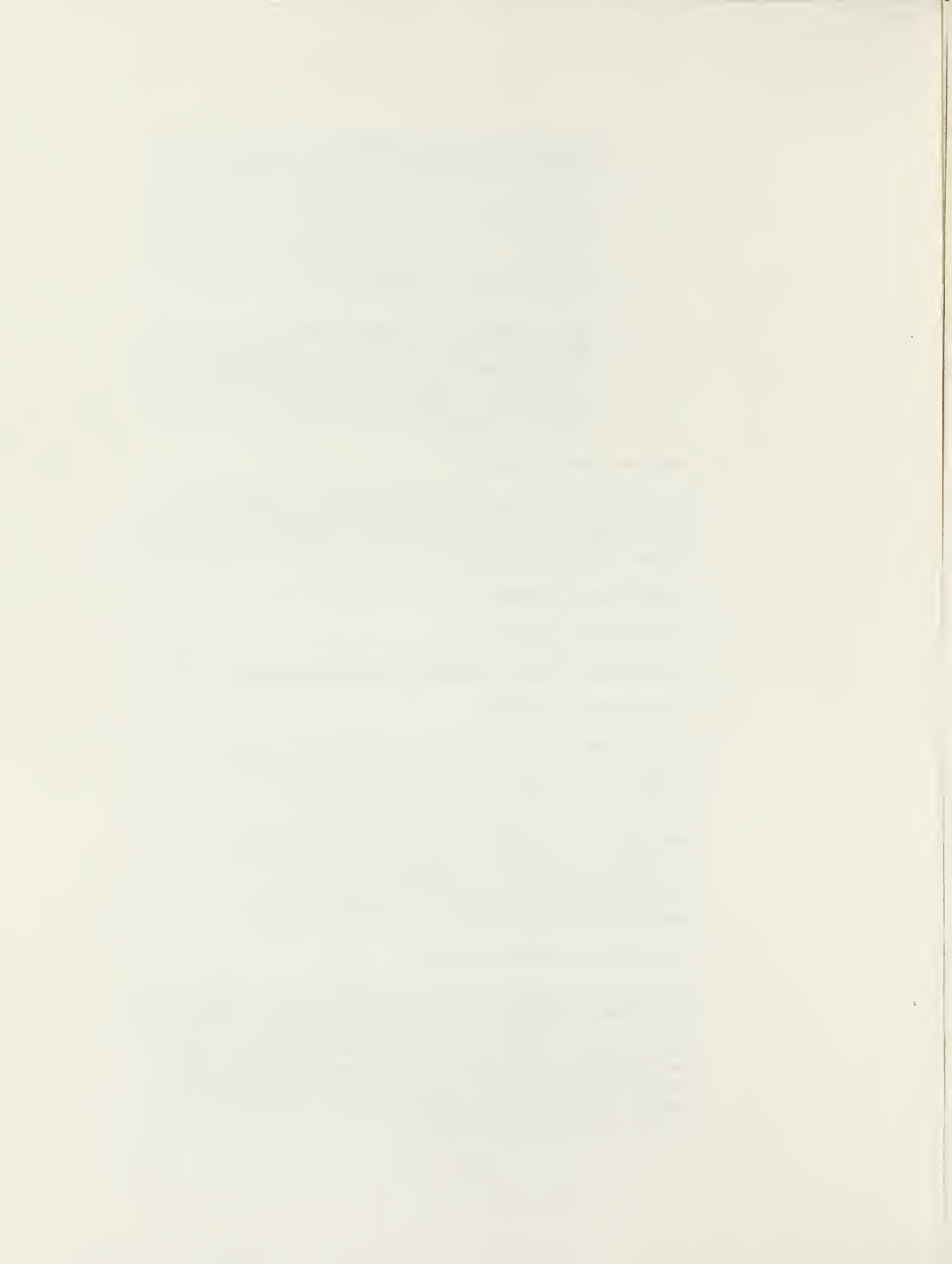
g. Keep records of your training (see Recordkeeping, p. 41)

h. Evaluate your training

The only way to know if the training has accomplished its objectives is to conduct an evaluation. You can use the evaluation to improve the training. This will be useful since training must be conducted annually for all employees and within thirty days of hire for new employees. The evaluation can consist of feedback from the employees (written and/or verbal), observations of work practices, pre- and post-tests for knowledge gain, etc. It is suggested that written evaluations be anonymous so that all employees feel comfortable in providing comments.

i. Plan your next annual training

Each year RTK training must be provided for your employees. The annual training is an opportunity to review the required topics and to give more instruction on important subjects. You may decide that there are many workplace chemicals in use that pose a fire hazard. Your annual training would then focus more on this topic. Other topics that may warrant more attention are first aid and the proper use of personal protective equipment.



Remember, training is required under the Right to Know Law and is a vital part of preventing injury and illness in the workplace. The Department of Labor and Industries can provide you with additional assistance (at no cost) in designing and conducting a training session and in locating educational and training resources and materials (see Appendices A and K).

HELP MODULE 6: RECORDKEEPING AND ONGOING TASKS

A. RECORDKEEPING

The law and its regulations only specify two areas of mandatory recordkeeping. However, this section will make practical recommendations for other forms of recordkeeping to facilitate compliance.

1. Material Safety Data Sheets The law requires that employers maintain MSDSs for a period of thirty years. Copies of these MSDSs must be available to former employees and/or their representatives (see Figure 2, p.23). It is probably easier to separate files on materials that are no longer in use from those still in the workplace.
2. Training Records The regulations specify that employers keep records on the following aspects of employee training:
 - a. description of the training (see Module 5, p. 31)
 - b. date of each training
 - c. names of employees receiving the training
 - d. names of trainers.

These records must be available to agents of the Commissioner of Labor and Industries. Records must be maintained for each employee as long as he or she is employed by the company.

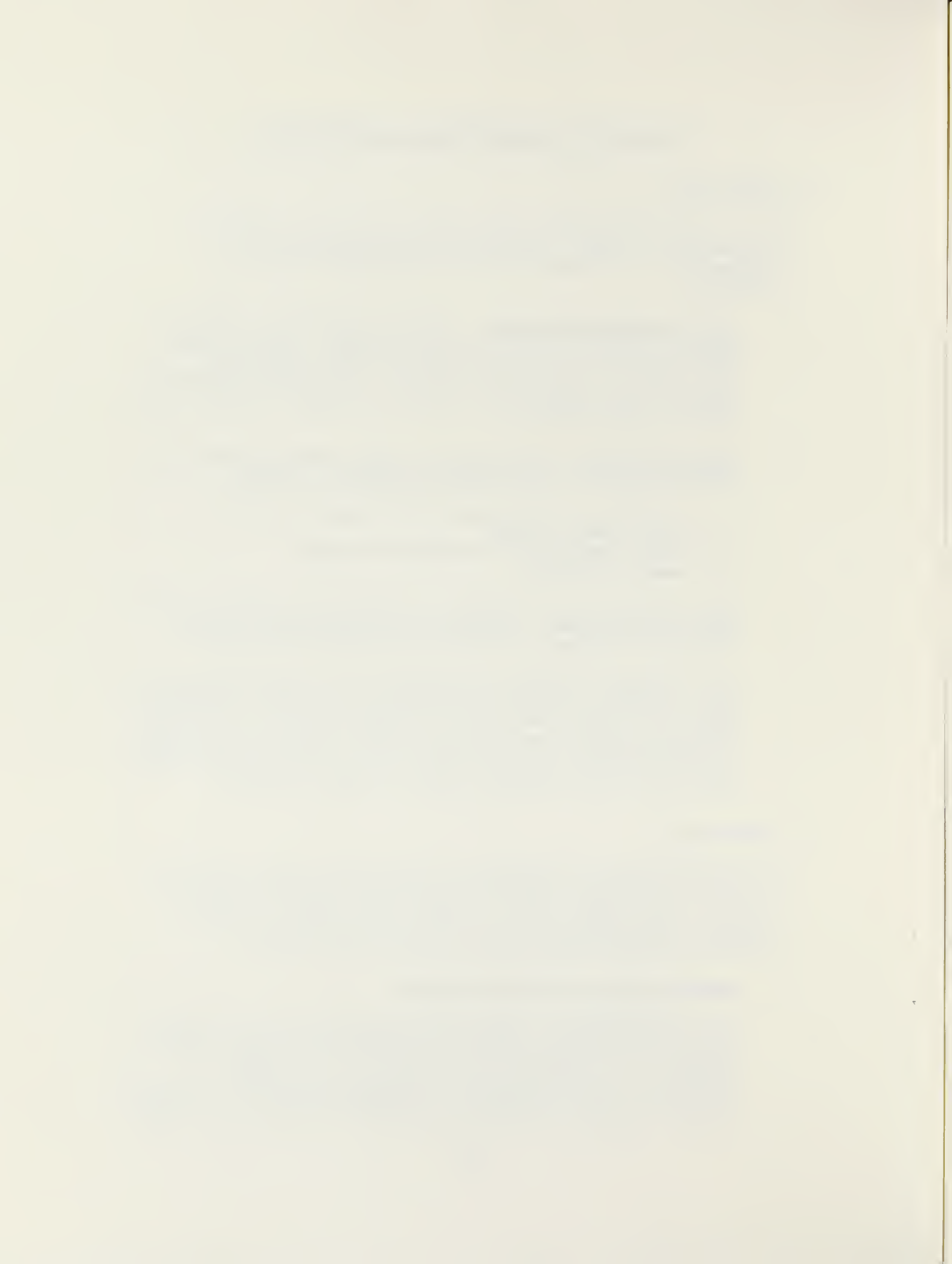
It is advisable (although not required) that you ask employees to sign an attendance sheet after attending a training. Provide a form that specifies the areas of training covered. For example, an employee would state that she had been trained on the hazards and safe handling of solvents used in her job rather than simply saying that she had general health and safety training.

B. ONGOING TASKS

The following areas of responsibility have been covered in previous sections of this manual. They are consolidated here to give an overview of the ongoing tasks an employer must perform to stay in compliance with the Right to Know Law. Use this section as a checklist to help assure that your program is up-to-date.

1. Regular Review of Workplace Products

It is recommended that all of your purchase contracts include a clause that requires an MSDS to accompany each initial product shipment. New products should be added to the product inventory. If the shipment is accompanied by an MSDS, send it to the Right to Know coordinator for review and filing. If no MSDS is sent, notify the coordinator and give the name of the product



and the manufacturer so that he or she can request the information (see Help Module 3, p. 16). If the new product does contain MSL substances, training and labeling requirements must be fulfilled and a copy of the new MSDS must be sent to the Department of Environmental Quality Engineering (DEQE) within thirty days.

2. Updated MSDSs

Evaluate new information on an updated MSDS as it comes into the workplace. It is advised that if updates are received in any form other than a revised MSDS you ask the manufacturer to incorporate the new information into a current MSDS so as to remove any possibility of legal liability for you, the employer. A copy of the revised MSDS must be sent on to DEQE within 6 months.

3. Changes in the Massachusetts Substance List

The list is updated at least annually by the Department of Public Health. They can be contacted for information about amendments to the MSL. Copies of updated versions of the MSL can be obtained from the Statehouse Bookstore (see Appendix C).

4. Training

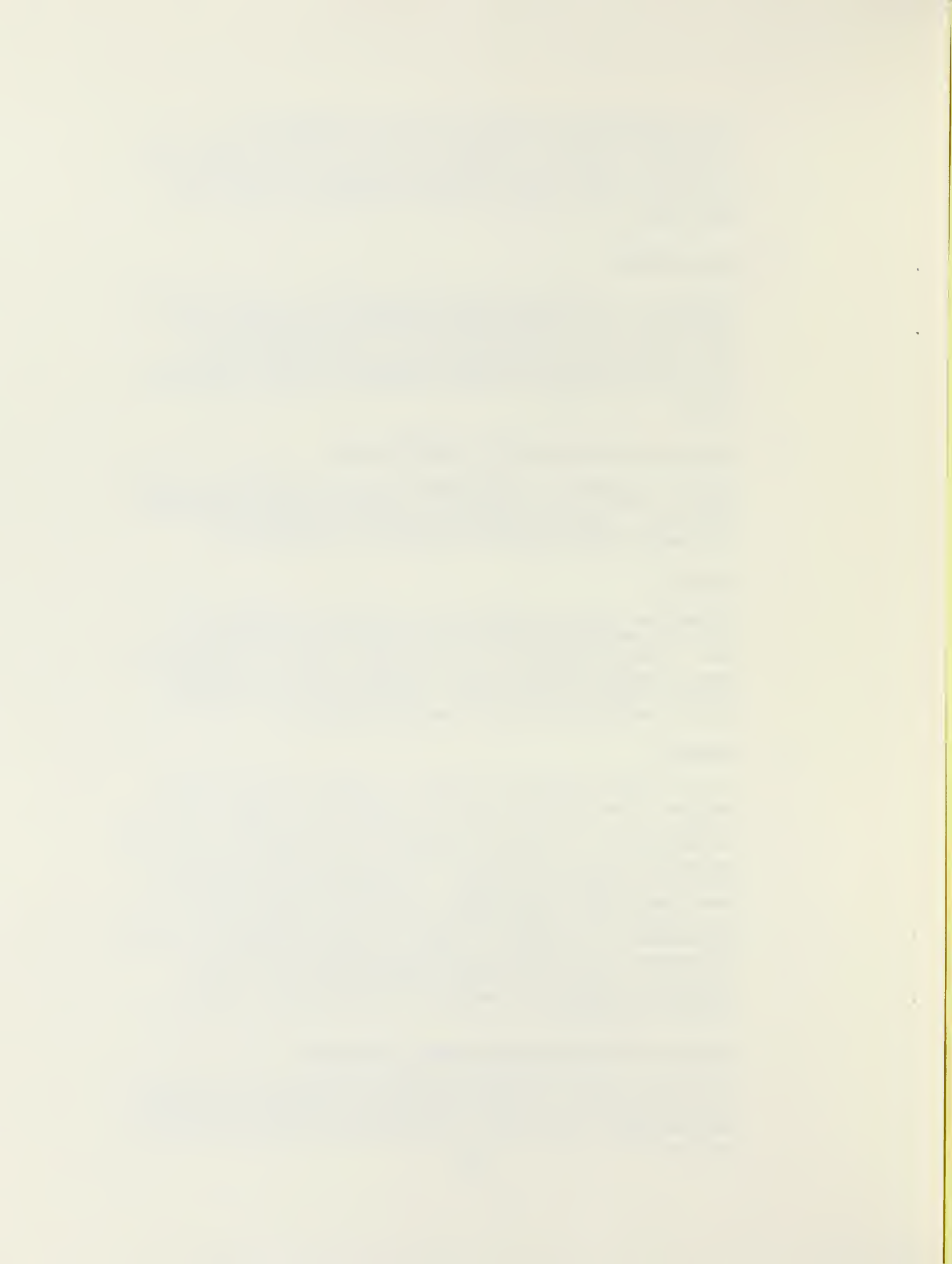
As mentioned above, employees must be trained annually. In addition, new employees must be trained within thirty days of hire. Monthly checking of training needs should be sufficient to keep all employees up to date. Training, even for previously trained workers, should reflect any changes in the substance list, in updated MSDSs and in employee exposure.

5. Labeling

All new products should be checked to ensure they are properly labeled. Older products should be periodically inspected to determine if the labels are still affixed and legible. As stated in Help Module 4, transfer containers must be labeled unless they are under 10 gallons and will be used the same day by the employee who made the transfer. If chemicals are transferred from a main source into smaller containers for routine use, these containers must be labeled with the chemical names of the ingredients. Care should be taken to keep the label from getting obliterated by chemicals or from being removed from the container. This is an ongoing responsibility that is best delegated to individuals working in the department where the chemicals are used.

6. Changes in the Massachusetts Right to Know Law

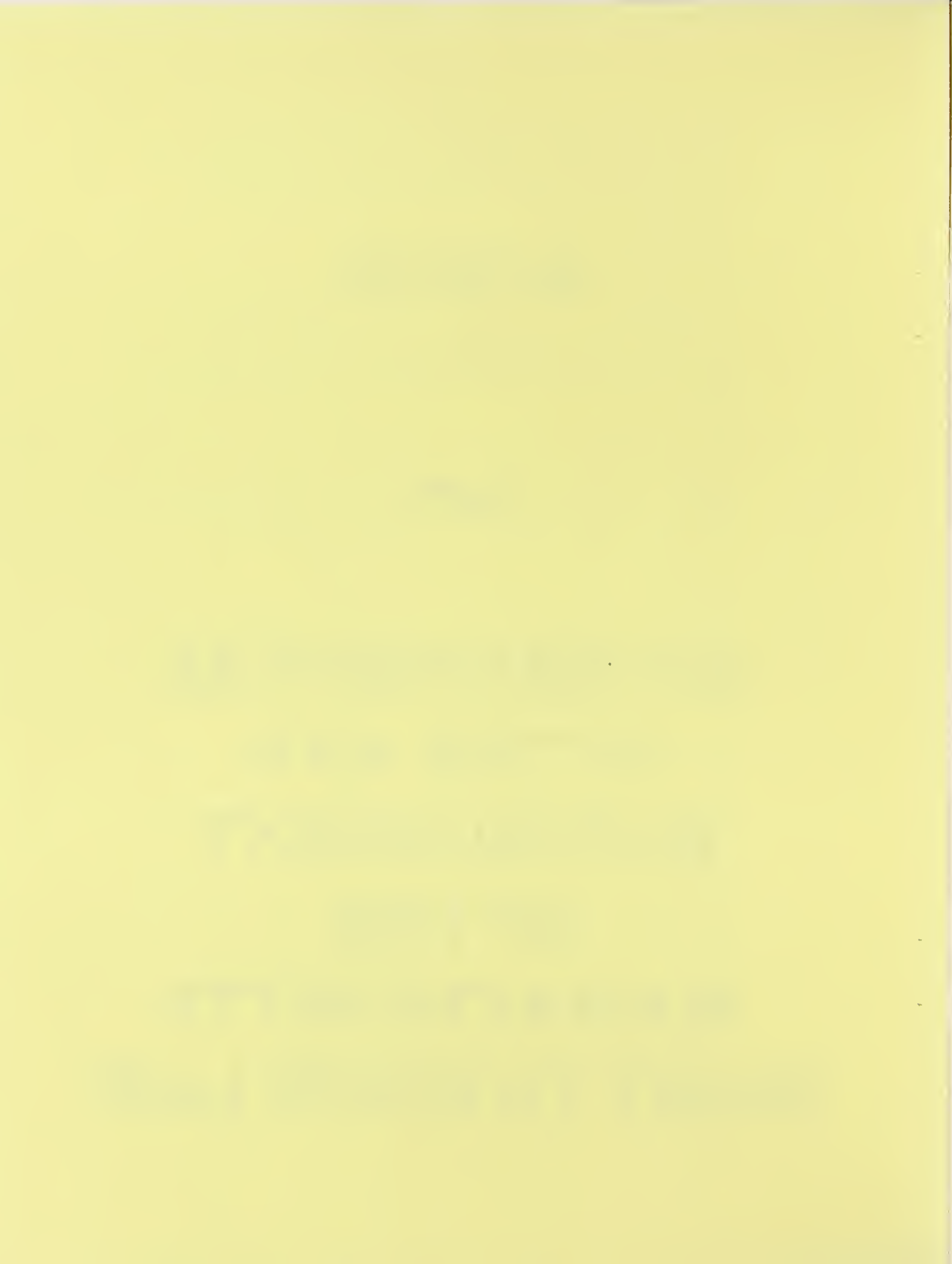
The Right to Know Law, like any law, may be amended or have its scope altered due to state or federal legislation. If you have any questions, contact any of the three state agencies listed in Appendix A.



SECTION III



GOVERNMENTAL
DUTIES AND
ENFORCEMENT
OF THE
MASSACHUSETTS
RIGHT TO KNOW LAW



I. DUTIES OF THE GOVERNMENTAL AGENCIES

There are three state departments that have duties given to them under the Massachusetts Right to Know Law (for addresses and phone numbers, see Appendix A). These departments meet together on a regular basis to ensure consistency in their requirements for compliance and enforcement. Following are descriptions of the duties of the three departments: Labor and Industries, Public Health, and Environmental Quality Engineering (see Figure 7, p.46).

A. DEPARTMENT OF LABOR AND INDUSTRIES (DLI)

The Department of Labor and Industries is responsible for:

1. Assisting Employers in obtaining Material Safety Data Sheets and with compliance of the worker portion of the law.
2. Administering Employee Complaints. If any employee feels that she or he has been discriminated against or discharged because of exercising his or her rights, a complaint can be filed with DLI (see Enforcement and Penalties, p. 47).
3. Enforcing Employer Workplace Requirements. DLI has the responsibility of enforcing sections of the law pertaining to container labeling, MSDSs, Workplace Notices and employee training (see Enforcement and Penalties, p. 47).

B. DEPARTMENT OF PUBLIC HEALTH (DPH)

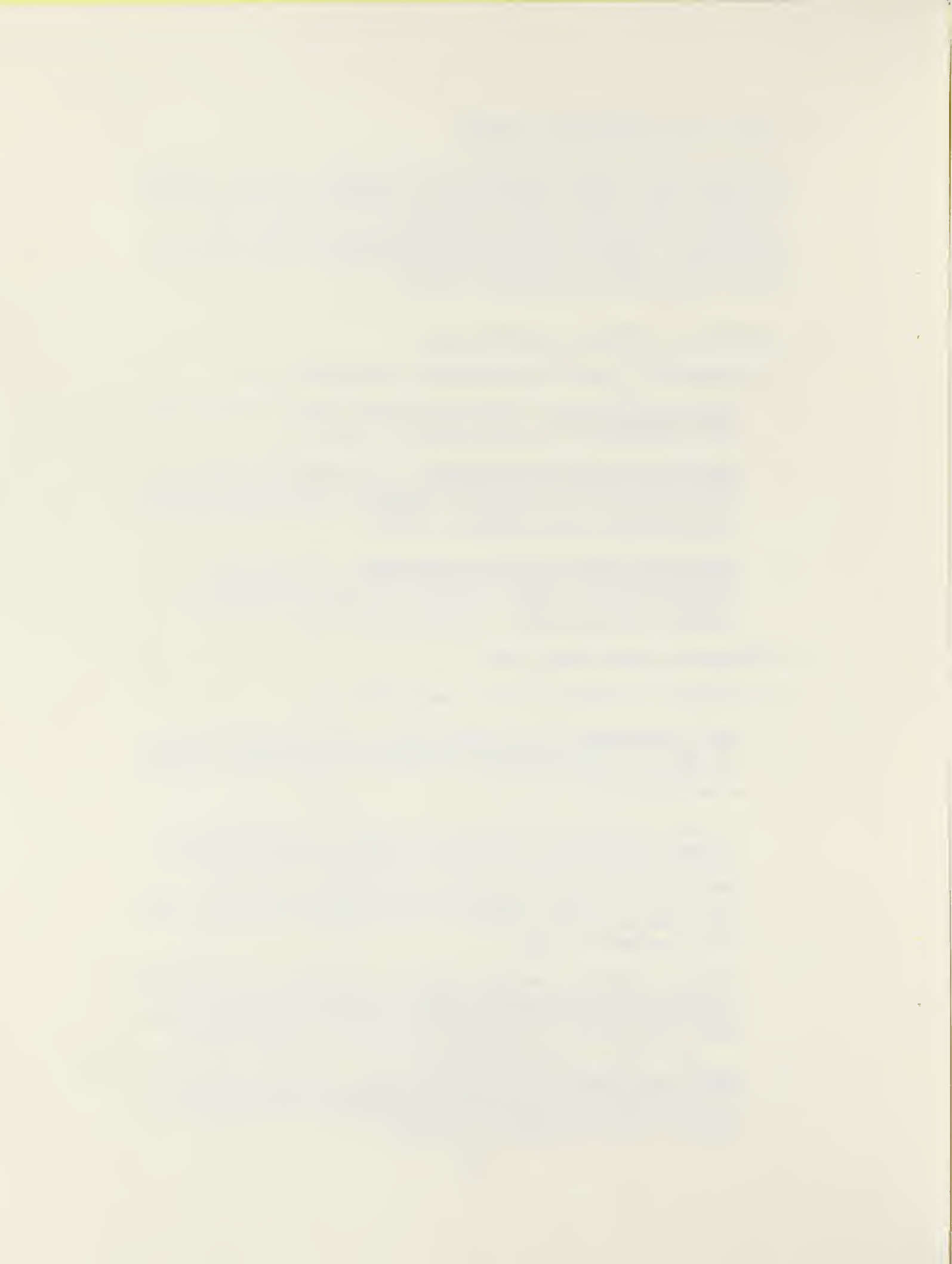
The Department of Public Health is responsible for:

1. Approving Exemptions for Research Labs. Research laboratories may apply to the Commissioner of the DPH for exemption from the Massachusetts law. As defined in M.G.L. Chapter 111F, Section 1, a research laboratory is:

"...any workplace or work area of a workplace used primarily for research, development, nonroutine testing or experimentation activity in which toxic or hazardous substances are used by or under the direct supervision of a technically qualified individual. Provided, however, that a research laboratory shall not be involved in the production or manufacture of goods for direct commercial sale".

Employers granted a research laboratory exemption by the DPH must continue to provide employee health and safety training, and notify DPH of any changes in operation of the workplace that may affect its status as a research laboratory as defined above.

2. Amending the Massachusetts Substance List. The Commissioner of DPH can amend the list by adding or deleting substances or by giving a new designation (such as carcinogen or teratogen) to a substance that is already on the list.



3. Approving Trade Secrets. Preparers of MSDSs who wish to exclude product information which gives them an advantage over competitors may apply to the Commissioner of DPH for trade secret exemption status for such product(s). If granted, preparers may omit on MSDSs the chemical name, common name and CAS number for each exempted product. In addition, under the regulations of the Department of Labor and Industries (DLI) if trade secret status has been granted by DPH for a particular product, preparers may omit listing percentages of hazardous ingredients.
4. Enforcing Physician's Access to Material Safety Data Sheets
See Figures 2 and 3, pp. 23-24.

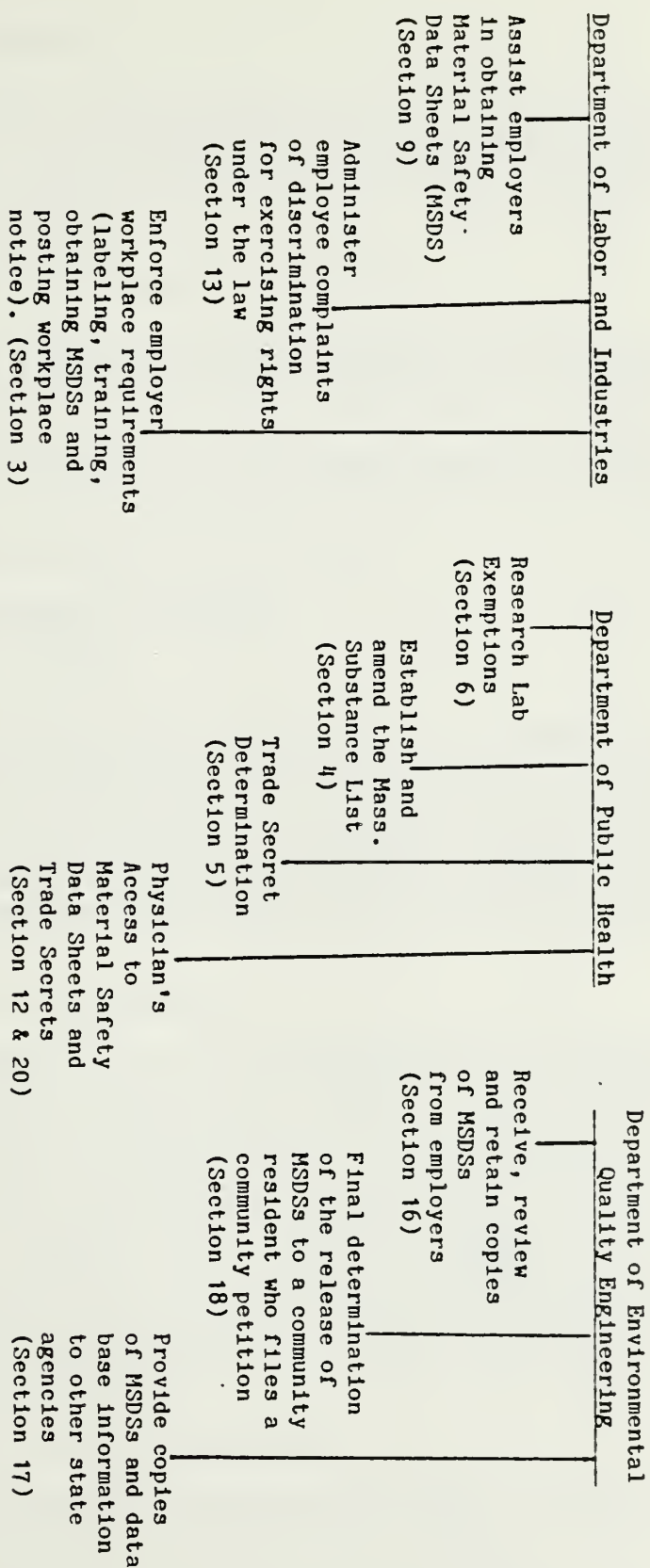
C. DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING (DEQE)

The Department of Environmental Quality Engineering is responsible for:

1. Receiving, Reviewing and Retaining MSDSs from Employers. All employers in Massachusetts must send copies of MSDSs for all products regulated by the Massachusetts Right to Know Law to the appropriate regional office of DEQE (see Figure 8, Appendix E).
2. Making Final Determinations Regarding Community Petitions for the Release of MSDSs. Any community resident can file a petition (with the Municipal Coordinator) to find out what toxic or hazardous substances are used or stored in workplaces in his or her municipality. DEQE makes the final determination as to whether the public's health is endangered and whether the MSDS should be released (see Figure 3, p. 24).
3. Providing Copies of MSDSs and Database Information to other State Agencies. These state agencies (other than DLI and DPH) must make a written request to DEQE. DEQE makes a written determination whether to release MSDS information, and copies are mailed to the relevant employer(s).

Figure 7

AGENCY RESPONSIBILITIES



II. ENFORCEMENT AND PENALTIES

Each department (Labor and Industries, Public Health, Environmental Quality Engineering) enforces its sections of the law and its own regulations. This part will focus on violations of the sections of the Massachusetts Right to Know Law enforced by the Department of Labor and Industries (DLI).

In general, there are two types of violations:

- A. The employer fails to comply with a provision of the Massachusetts Right to Know Law (Section 3). For example, employees do not receive training, containers are improperly labeled, etc.
- B. The employer discharges or discriminates against an employee who has exercised his/her rights provided under the law (Section 13).

A. Section 3: FAILURE TO COMPLY WITH THE LAW

1. Wrongful violations of Section 3

a. Cause to Believe

If the Commissioner of DLI has cause to believe that an employer has failed to comply with the law, he or she may initiate an investigation. A complaint filed with DLI by an employee constitutes a cause to believe that a violation of the law may be occurring. A "cause to believe" can also be generated by accident and investigation reports prepared by DLI inspectors and referrals from other state and federal agencies.

b. Workplace Investigation

The Commissioner of DLI has 120 days from the date of receiving knowledge of a violation to decide whether to initiate an investigation. If an investigation is initiated, you, as the employer, would be notified immediately by certified mail. The notification would include the nature of the alleged violation and when it was alleged to have occurred. You have 20 days to send a written response. The investigation, including a workplace inspection, may be conducted either before or after your 20 day response period. The Supervising Inspector or the Right to Know Coordinator makes this decision (DLI Policy Statements, 1/19/85).

c. Findings of the Investigation

- No wrongful violation has occurred: In this situation, you would be notified within 10 days.
- Good cause to believe a wrongful violation has occurred: The Commissioner would notify you immediately and begin the process of eliminating the alleged violation by conference, conciliation and persuasion. In case of failure to eliminate the

violation, the Commissioner may issue cease and desist orders and also request the Attorney General to enforce the issued orders.

- Penalties: The Commissioner may impose upon an employer a fine of up to \$250.00 for each day that a wrongful violation continues. The Commissioner may request the Attorney General to enforce fines and penalties.
- Judicial Review: Any employer aggrieved by an order of the Commissioner may obtain judicial review in the Superior Court for the county in which the violation occurred.

2. Willful and Intentional Violations of Section 3:

a. Cause to Believe

A "cause to believe" is generated in the same way as is a case of an alleged wrongful violation.

b. Action by the Commissioner

If the Commissioner of DLI has cause to believe that you (as an employer or manufacturer) have willfully and intentionally violated the Massachusetts Right to Know Law, he can report the alleged violation to the Attorney General. The Commissioner may also request that the Attorney General bring action in court to stop the violation and seek penalties.

c. Penalties

If you are found to have willfully or intentionally violated the Massachusetts Right to Know Law, you are guilty of a misdemeanor.

- First offense - a fine of not more than five hundred dollars for each day the violation continues and/or imprisonment for not more than thirty days.
- Subsequent offense - a fine of not more than one thousand dollars for each day the violation continues and/or imprisonment for not more than ninety days.

Note: An employee cannot take any private action against you, the employer, or against a manufacturer under the RTK Law. The responsibility for enforcement lies exclusively with the Attorney General.

B. Section 13: DISCHARGING OR DISCRIMINATING AGAINST AN EMPLOYEE

1. General

a. Employee Complaint

- Any employee who believes that he or she has been discriminated against or discharged for exercising his

or her rights under the Right to Know Law may file a verified complaint with the Commissioner of DLI. The employee has 180 days to file after that violation occurred or after discovering that the violation occurred.

- When the employee files with the Commissioner of DLI, he or she must also send a copy by certified mail to you, the employer.
- After receipt of the verified complaint, you have 20 days to file a response with the Commissioner of DLI.

b. Investigation

- When DLI undertakes an investigation of the alleged violation, two results are possible:
 - * The Commissioner may determine that there is insufficient evidence to believe a violation occurred. In this case, both you and the employee must be notified within 10 days. The employee has the right to request an adjudicatory hearing within 10 days of being notified of the Commissioner's determination.
 - * The Commissioner may determine that there is cause to believe a violation occurred. Again, both you and the employee must be notified within 10 days. The Commissioner will then conduct an adjudicatory hearing. If after the hearing, the Commissioner determines that you as the employer did violate the Massachusetts Right to Know Law, action may be taken to change the situation. This action can include a cease and desist order or other affirmative action.

c. Appeal

Either you or the employee may appeal the Commissioner's determination in the Superior Court in the county where your workplace is located.

2. Discrimination Against an Employee who Refuses to Work with a Substance

An employee has the right to refuse to work with any substance on the Massachusetts Substance List under very limited conditions. The right to refuse is valid if the employee makes a written request for an MSDS to you and you do not give to him or her within four working days, a copy of the MSDS or proof of your written efforts to obtain it. If an employee files a written complaint for discrimination and violation of the RTK Law after exercising her or his right to refuse to work with a substance, the Commissioner will hold an adjudicatory hearing within 10 days to resolve the complaint.

Note: An employee of the Commonwealth who is designated as performing essential services is not granted this right. (See Help Module 3, p. 25)

SECTION IV



APPENDICES

DIRECTORY OF ASSISTANCE

FOR INFORMATION ON:

- How to Obtain a Copy of the Law
- Employee Rights
- How to Obtain Workplace Notices
- How to Obtain and Understand MSDSs
- Who is Qualified as a Third Party Trainer
- Employer Responsibilities
- How to Conduct a Product Inventory
- How to Design a Training
- How to Label

Contact: Department of Labor and Industries (DLI)

Division of Industrial Safety (DIS)
 Right to Know Office
 100 Cambridge Street, 11th floor
 Boston, MA 02202
 (617) 727-5816

Division of Occupational Hygiene (DOH)
 Right to Know Program
 1001 Watertown Street
 West Newton, MA 02165
 (617) 969-7177

****DIS District Offices****

| <u>Lawrence</u> | <u>New Bedford</u> | <u>Pittsfield</u> | <u>Worcester</u> | <u>Springfield</u> |
|-----------------|--------------------|-------------------|------------------|--------------------|
| 11 Lawrence St. | 908 Purchase St. | 246 North St. | 283 Main St. | 165 Liberty St. |
| (617) 681-7798 | (617) 997-8263 | (413) 445-4214 | (617) 752-6504 | (413) 734-1421 |
| 727-0611 | 727-4994 | | | |

FOR INFORMATION ON:

- How to File MSDSs and Employer Identification Sheets
- How to Respond to Municipal Coordinators or Community Residents' Requests for MSDSs
- What Constitutes a Complete MSDS
- What are the Exemptions for Filing MSDSs

Contact: Department of Environmental Quality Engineering (DEQE)

Right to Know Office
 One Winter Street
 Boston, MA 02108
 (617) 292-5810

****DEQE Regional Offices****
 (See Appendix E)

FOR INFORMATION ON:

- The Massachusetts Substance List
- Physicians' Access to MSDSs
- Research Laboratory Exemption
- Trade Secret Status

Contact: Department of Public Health (DPH)

Right to Know Program
 150 Tremont Street, 7th floor
 Boston, MA 02111
 (617) 727-4942



RIGHT to KNOW

Appendix B

WORKPLACE NOTICE

THE RIGHT TO KNOW LAW, Chapter 111F of the Massachusetts General Laws, provides new rights to employees and community residents regarding the communication of information on toxic and hazardous substances.

Those rights include:

WORKPLACE NOTICE A notice must be posted in a central location in the workplace informing employees of their rights under the law. The notice must be in the English Language. It must also be available to non-English speaking persons in their language.

TRAINING Employers must provide an annual training program to employees who work with toxic or hazardous substances. New employees must receive training within thirty days from date of hire. The training program must be conducted by a competent person and may be in the form of verbal and/or written instruction. At a minimum, training must include an explanation of employee rights, the MSDS as a document, and those MSDS's covering toxic or hazardous substances used, handled or stored in the workplace; applicable protective equipment, clothing and labeling of substances that are carcinogenic, mutagenic, teratogenic or neurotoxic. The employer must keep a record of this training or instruction which must be given with pay during the employee's normal work or shift hours.

MATERIAL SAFETY DATA SHEET (MSDS) The Material Safety Data Sheet is the document that provides information on each toxic or hazardous substance used or stored in the workplace. An employee or his or her designated representative has the right to obtain and examine the MSDS for any toxic or hazardous substance to which the employee "is", "may be" or "has been" exposed, if the employee's request is made to the employer in writing. After four working days from the date the request is made an employee can refuse to work with the substance when two conditions exist.

1. The employer fails to furnish the employee with an MSDS and 2. the employer fails to furnish the employee with proof that the employer has exercised diligent efforts to obtain an MSDS, either from the manufacturer or through the Commissioner of Labor and Industries.

Public employees classified as performing an essential service may not refuse to work with the substance.

LABELING All containers in the workplace of more than five pounds or more than one gallon, containing toxic or hazardous substances, must be labeled with the chemical name of the substance. Containers of mixtures must be labeled with the chemical name of each toxic or hazardous constituent when the constituents comprise one percent or more of the mixture. Containers of more than 30 pounds or more than 5 gallons must also be labeled with the appropriate National Fire Prevention Association (NFPA) Symbol. Labels must be clear, prominent, in English and weather resistant.

NON-DISCRIMINATION An employee who believes he or she has been discharged, disciplined or discriminated against by an employer for exercising rights granted under the Law, has one hundred-eighty days to file a complaint with the Commissioner of the Department of Labor and Industries. A copy of the verified complaint must be sent to the employer at the same time by certified mail.

THE COMMONWEALTH OF MASSACHUSETTS / DEPARTMENT OF LABOR AND INDUSTRIES

Division of Industrial Safety Branch Offices

| | |
|-----------------------|----------------------------|
| Boston | (617) 727-3460 |
| New Bedford | (617) 997-8263 or 727-4994 |
| Worcester | (617) 752-6504 |
| Lawrence | (617) 681-7798 or 727-0611 |
| Springfield | (413) 734-1421 |
| Pittsfield | (413) 445-4214 |

Division of Occupational Hygiene . . . (617) 969-7177

Appendix C

HOW TO OBTAIN MASSACHUSETTS RIGHT TO KNOW DOCUMENTS

The Complete Right to Know Booklet

All official state documents pertaining to the Massachusetts Right to Know Law are available in the "Complete Right to Know Booklet." This publication contains the following:

- a. M.G.L. 111F: Massachusetts Right to Know Law
- b. Massachusetts Substance List, by CAS Number order
- c. Massachusetts Substance List, in alphabetical order
- d. List of Extraordinarily Hazardous Substances
- e. 105 CMR 670: Department of Public Health Rules and Regulations
- f. 310 CMR 33: Department of Environmental Quality Engineering Rules and Regulations
- g. 441 CMR 21: Department of Labor and Industries Rules and Regulations

This booklet is available at a cost of \$5.60 from the following locations:

Massachusetts State House
Bookstore, Room 116
Boston, MA 02133
(617) 727-2834

Secretary of State/Western Office
21 Elm Street
Springfield, MA 01103-1807
(413) 733-7876

To obtain this booklet by mail, send your request and a check or money order for \$7.10 (includes \$1.50 for postage and handling) to one of the above addresses. Check should be made payable to the Commonwealth of Massachusetts.

The Massachusetts Substance List (MSL):

Please keep in mind that the Massachusetts Substance List (MSL), under the Massachusetts Right to Know Law, is required to be reviewed annually by the Commissioner of the Department of Public Health though new substances can be added at any time. When amendments to the MSL go into effect, the amended MSL will be published in the Massachusetts Register. The "Complete Right to Know Booklet" will be also updated with the amended MSL.

The original MSL has been amended once and the 1986 amended MSL is included in the above "Complete Right to Know Booklet" compiled and dated January 30, 1986.

Appendix D

INDEX TO MASSACHUSETTS RIGHT TO KNOW LAW (M.G.L. CHAPTER 111F)

- Section 1 - Definitions
- Section 2 - Basic agency responsibilities
- Section 3 - Cause to believe
 - Inspections
 - Penalties for non-compliance
- Section 4 - Massachusetts Substance List
 - Designation of carcinogen, mutagen, neurotoxin and teratogen
 - Mixtures
 - Interagency efforts in writing Material Safety Data Sheets and providing information to the public
- Section 5 - Trade secrets
- Section 6 - Research laboratory exemptions
- Section 7 - Labeling requirements and exemptions
- Section 8 - Manufacturers and suppliers' responsibility to provide and prepare material safety data sheets (MSDSs)
 - Updating information on MSDSs
- Section 9 - Exemptions to provide Material Safety Data Sheets to purchasers
 - Diligent effort by employer to obtain MSDSs
 - Employers requests for assistance
- Section 10 - Mixture Material Safety Data Sheet (MSDS)
- Section 11 - Definition of a Material Safety Data Sheet
 - Employer's responsibility to provide Material Safety Data Sheets
 - Employee rights to Material Safety Data Sheets
 - Right to refuse work
 - Workplace notice
 - Independent contractors
- Section 12 - Access to MSDSs by the employee's physician
- Section 13 - It is unlawful to discipline, discharge, or otherwise discriminate against an employee for exercising his or her rights under the RTK Law
- Section 14 - Employers must maintain records for 30 years
- Section 15 - Workplace training requirements
- Section 16 - Filing Material Safety Data Sheets with DEQE, and upon request, with the local Municipal RTK Coordinator

Appendix D (cont.)

INDEX TO MASSACHUSETTS RIGHT TO KNOW LAW (M.G.L. CHAPTER 111F)

- Section 17 - Access to Material Safety Data Sheets by state agencies
- Section 18 - Community resident access to MSDSs
- Section 19 - Access to Material Safety Data Sheets during emergencies by
municipal officials
- Section 20 - Access to MSDSs by community residents' treating physician
- Section 21 - Rules for non-disclosure of information on MSDSs

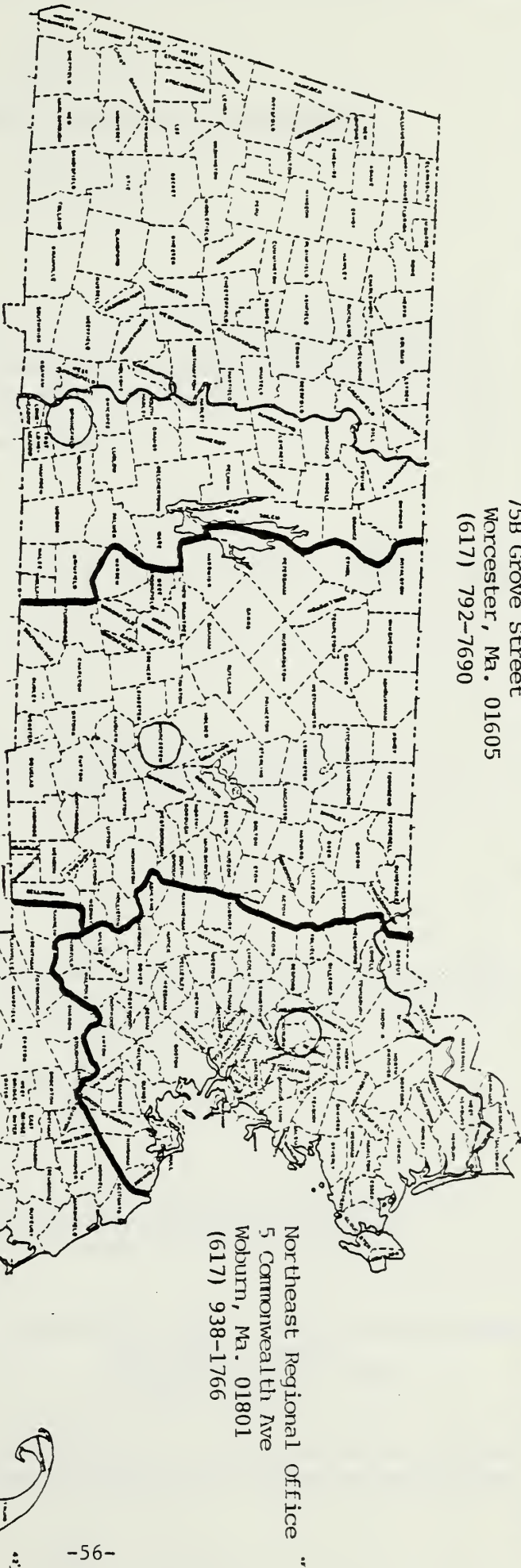
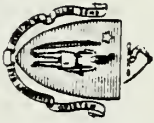
DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING (DEQE)
Right to Know Regional Offices

Central Regional Office
75B Grove Street
Worcester, Ma. 01605
(617) 792-7690

Northeast Regional Office
5 Commonwealth Ave
Woburn, Ma. 01801
(617) 938-1766

THE COMMONWEALTH OF MASSACHUSETTS
Western Regional Office
4th floor State House West
436 Dwight Street
Springfield, Ma. 01103
(413) 785-5327

Southeast Regional Office
Lakeville Hospital
Lakeville, Ma. 02347
(617) 947-1231



Appendix F

DIRECTORY OF PRIVATE AGENCIES AND ORGANIZATIONS

1. American Lung Association of Massachusetts
803 Summer Street
Boston, MA 02210
(617) 269-9720

State association dedicated to the prevention and control of lung disease and factors such as air pollution which aggravate such conditions. They have expertise in such areas as occupational lung diseases and can provide educational materials.

2. Associated Industries of Massachusetts
441 Stewart Street
Boston, MA 02116
(617) 262-1180

A resource for information on occupational health and safety for both business and industry.

3. Double Exposure
P.O. Box 1342
Brookline, MA 02146

Women's organization, including public health and technical professionals, with expertise in reproductive hazards.

4. Massachusetts Association of Conservation Commissions
Lincoln Filene Center
Tufts University
Medford, MA 02155
(617) 381-3457

Have expertise and experience in herbicides and pesticides and other environmental health areas. Have various resources available to the public, including a newsletter and resource center.

5. Massachusetts Association of Health Boards
111 Atlantic Avenue
Cohasset, MA 02025
(617) 383-0693

Association of Town and City Health Boards, with expertise in hazardous waste management, pesticides and sanitary landfill management. Provides help to municipal boards on general health board issues.

6. Massachusetts Coalition for Occupational Safety and Health (MassCOSH)
718 Huntington Avenue 458 Bridge Street
Boston, MA 02115 or Springfield, MA 01103
(617) 277-0097 (413) 732-2847

A non-profit, statewide organization that provides technical, medical, legal and educational assistance to unions and workers on health and safety issues.

Appendix F (cont.)

DIRECTORY OF PRIVATE AGENCIES AND ORGANIZATIONS

7. Massachusetts Cooperative Extension Service
Stockbridge Hall
University of Massachusetts, Amherst
Amherst, MA 01003
(413) 545-2715

Statewide organization with expertise in environmental and natural resource areas which can provide the public with information and technical assistance on environmental and toxic materials education, and other topics.

8. Massachusetts Fair Share, Inc.
20 East Street
Boston, MA 02111
(617) 654-9000

A non-profit citizen's action group which is involved in various issues, including toxic chemicals in the workplace and environment.

9. Massachusetts Poison Control Center
(617) 232-2120 or 1-800-682-9211

Provides medical information, 24 hours a day, on the prevention and treatment of accidents that involve the ingestion of any potentially poisonous substance.

10. Massachusetts Public Health Association
Environmental and Occupational Health Section
305 South Street
Jamaica Plain, MA 02130
(617) 524-6696

Dedicated to the goal of optimal workplace and environmental health.

11. Massachusetts Safety Council, Inc.
111 Beach Street, 2n floor
Boston, MA 02111
(617) 542-6067

A private non-profit organization involved in the safety and health education of employers as well as the general public.

Appendix F (cont.)

DIRECTORY OF PRIVATE AGENCIES AND ORGANIZATIONS

12. National Birth Defects Center
Kennedy Memorial Hospital for Children
30 Warren Street
Brighton, MA 02135
(617) 787-5958

The Center is a non-profit organization that operates a pregnancy/environmental hotline, Monday through Friday, 9:00 am to 4:30 pm. The hotline provides information on chemicals, drugs and medication which may be harmful to a pregnant woman and her unborn child. The phone number is toll free in Massachusetts, 1-800-322-5014 or (617) 787-4957.

13. Office Technology Education Project (OTEP)
6 Newsome Park
Jamaica Plain, MA 02130
(617) 262-1047

A non-profit organization that provides education and resources for employees and employers on the prevention of health hazards associated with office technology.

14. Safety Council of Western Massachusetts
90 Berkshire Avenue
Springfield, MA 01109
(413) 737-1470

A private, non-profit chapter of the National Safety Council. Emphasis is on occupational safety and health, training programs and services. A technical hotline, SAFELINE, is available to all members.

15. University of Massachusetts
Department of Environmental Health and Safety
Morrill Science Center N414
Amherst, MA 01003
(413) 545-2682

Offers technical assistance in developing environmental health and safety programs and services; including Right to Know compliance.

REFERENCES FOR A SAFER AND HEALTHIER WORKPLACE

As technology and the use of chemicals have increased in industry, so has our need for information. There is no single source that will provide you with everything you need. Many of the technical books are expensive except for those produced by the National Institute for Occupational Safety and Health (NIOSH), and state and non-profit organizations; they are often less expensive or free. If you do not wish to purchase expensive references, they can sometimes be found in public or university libraries.

INTRODUCTION TO OCCUPATIONAL SAFETY AND HEALTH ISSUES

1. American Lung Association. Occupational Lung Diseases - An Introduction. NY: ALA, 1979. Individual copies are free. Call (617) 269-9720 or check your local telephone directory for a listing.

This 80-page booklet presents a non-technical overview to occupational lung diseases. The types of lung hazards are reviewed as well as control methods.

2. Davis, M. and A. Rowland. Occupational Disease Among Black Workers: An Annotated Bibliography. Berkeley, CA: Labor Occupational Health Program, 1980. \$5.00. Labor Occupational Health Program, Institute of Industrial Relations University of California, 2521 Channing Way, Berkeley, CA 94702, Tel: (415) 642-5452.
3. International Labour Organization. Encyclopedia of Occupational Health and Safety. Geneva: ILO, 1983. \$155.00. ILO, 1750 New York Avenue NW, Washington, D.C. 20006, Tel: (202) 376-2315.

This two-volume set is an excellent overview of topics in occupational safety and health. Useful references are provided at the end of each topic entry.

4. MassCOSH Women's Committee. Our Jobs, Our Health: A Woman's Guide to Occupational Health and Safety. Boston: MassCOSH and Boston Women's Health Collective, 1983. \$7.00. MassCOSH, 718 Huntington Avenue, Boston, MA 02115, Tel: (617) 277-0097 Boston; (413) 732-2847 Springfield.

This guide includes information on worker rights, how to recognize hazards, and how to work for health and safety improvements in the workplace.

5. Stellman, J.M. and S.M. Daum. Work is Dangerous to Your Health. Random House, New York: Vintage Books, 1973. \$5.95. Random House, Tel: 1-800-638-6460.

This reference is a readable guide to health hazards in the workplace and what you can do about them. It explains how different hazards affect the body and lists the hazards by occupation.

6. Stellman, J.M. and S.M. Henifin. Office Work Can Be Dangerous To Your Health. New York: Pantheon Books, 1984. \$6.95. Random House, Tel: 1-800-638-6460.

This book provides a comprehensive look at the range of hazards in the office environment. Included are lighting, VDTs, noise, office design and indoor air pollution. Explanations on how to measure these hazards and correct them are also provided.

CHEMICAL HAZARDS

1. American Conference of Governmental Industrial Hygienists. Documentation of the Threshold Limit Values for Substances in Workroom Air. Cincinnati: ACGIH, 1985. \$110.00. (Updated with annual supplements). American Conference of Governmental Industrial Hygienists (ACGIH), 6500 Glenway Avenue, Cincinnati, OH 45211, Tel: (513) 661-7881.

This text provides short summaries of the toxic effects of about 500 substances. The summaries document the need for recommended limits {called threshold limit values (TLVs)} on worker exposure for these substances. All of these substances are on the Massachusetts Substance List (MSL).

2. American Conference of Governmental Industrial Hygienists. TLVs - Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment with Intended Change for 1986-87. Cincinnati: ACGIH, 1986. \$4.50. American Conference of Governmental Industrial Hygienists (ACGIH), 6500 Glenway Avenue, Cincinnati, OH 45211, Tel: (513) 661-7881.

This booklet lists ACGIH's recommended exposure limits.

3. American Industrial Hygiene Association. Hygienic Series. Akron: AIHA, 1980 (updated periodically). Member: \$90, Non-member: \$125. American Industrial Hygiene Association (AIHA), 475 Wolf Ledges Parkway, Akron, OH 44311, Tel: (216) 762-7294.

This reference provides a 2-4 page summary on almost 200 common workplace chemicals. The guides also include the toxic effects, Chemical Abstract Service (CAS) numbers and methods of controlling exposures.

4. American Industrial Hygiene Association. Industrial Hygiene: A Guide to Technical Information Sources. Akron, OH: AIHA, 1984. Member: \$9.00, Non-member: \$19.00. American Industrial Hygiene Association (AIHA), 475 Wolf Ledges Parkway, Akron, OH 44311, Tel: (216) 762-7294.

This book provides a systematic guide to sources of technical information in industrial hygiene. Listings of currently available reference works and texts, government documents and journals are found in this book.

5. Barlow, S.M. and F.M. Sullivan. Reproductive Hazards of Industrial Chemicals. New York: Academic Press, 1982. \$82.50. Academic Press Inc., Orlando, FL 32887, Tel. (305) 345-4100.

In this text, almost 50 industrial compounds are reviewed for their effects on fertility (male and female) and teratogenic effects. Both animal and human data are summarized.

6. Burgess, W. Recognition of Health Hazards in Industry. N.Y.: John Wiley and Sons, 1981. \$38.00. John Wiley and Sons, 600 3rd Avenue, New York, NY 10022, Tel: (212) 850-6000.

This book reviews the operations and health hazards of a variety of industrial settings with an emphasis on controlling these hazards through engineering design.

CHEMICAL HAZARDS (cont.)

7. Clayton, G.D. and F. Clayton. Patty's Industrial Hygiene and Toxicology, Vol. II. Toxicology. New York: John Wiley and Sons, 1982. Volume II is divided into 3 parts: Part A: \$147.00, Part B: \$104.00, Part C: \$133.00. John Wiley and Sons, 600 3rd Avenue, New York, NY 10022, Tel: (212) 850-6000.

This is a classic reference for topics in occupational safety and health.

8. Environmental Protection Agency (EPA). Chemical Emergency Preparedness Program: Chemical Profiles. Washington D.C.: EPA, 1985. Free. Contact EPA: 1-800-535-0202.

This is a set of over 400 profiles of chemicals that are on the EPA's list of acutely toxic chemicals. The profiles are in a format similar to material safety data sheets and provide a summary documenting the hazards.

9. Finkel, A.J. Hamilton and Hardy's Industrial Toxicology. Boston: John Wright-PSG, Inc., 1983. \$49.00. John Wright-PSG, Inc., 545 Great Road, Littleton, MA 01460, Tel: (617) 486-8971.

This text is designed for medical professionals and students but is accessible to non-medical people. It covers the toxic effects of metals, chemical compounds, pesticides, radiant energy, etc.

10. Hawley, G.G.. The Condensed Chemical Dictionary. New York: Van Nostrand Reinhold Company, Inc., 1981. \$46.75. Van Nostrand Reinhold Company, Inc., 7625 Empire Drive, Florence, KY 41042-0668, Tel: (606) 525-6600.

This reference provides technical, but clear explanations of chemical terms and processes. It also identifies the chemical identity, uses and properties of many trade name products. Entries are cross-referenced.

11. Levy, B. and D. Wegman. Occupational Health: Recognizing and Preventing Work-Related Disease. Boston: Little, Brown and Company, 1983. \$29.00. Little, Brown and Company, 200 West Street, Waltham, MA 02254, Tel: (617) 227-0730.

This source provides an overview of the diseases and disorders caused by workplace exposures. Useful, annotated bibliographies follow each chapter.

12. Massachusetts Division of Occupational Hygiene. Recommended Safe Practices Bulletins. Boston: Mass. DOH. Free. Massachusetts Division of Occupational Hygiene, 1001 Watertown Street, West Newton, MA 02165, Tel: (617) 969-7177.

The collection consists of information on workplace hazards and methods for controlling these hazards in a variety of work settings. Includes recommendations for safe practices and exposure limits.

13. National Institute for Occupational Safety and Health (NIOSH). Registry of Toxic Effects of Chemical Substances. Washington, D.C.: U.S. Government Printing Office, 1983-84. NIOSH Publication No. 83-107, Three volumes. Out of print. See Public or University libraries. Superintendent of Documents, U.S. Governmental Printing Office, Washington, D.C. 20402, Tel: (202) 783-3238.

This is an exhaustive reference (with data on 39,000 chemicals), but somewhat difficult to use. The entries are brief and use abbreviations.

CHEMICAL HAZARDS (cont.)

14. NIOSH, Pocket Guide to Chemical Hazards. Washington, D.C.: U.S. Government Printing Office, 1985. NIOSH Publication No. 85-114, GPO Stock No. 017-033-00418-8. Individual copies are free. NIOSH Publications, 4676 Columbia Parkway, Cincinnati, OH 45226.

A convenient, pocket-sized book that has summary tables on almost 400 chemicals including their properties, exposure limits, health effects and protective equipment.

15. National Safety Council. Fundamentals of Industrial Hygiene. Chicago: National Safety Council, 1979. \$53.00. National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611, Tel: (312) 527-4800.

This reference is a useful textbook for recognizing, evaluating and controlling workplace hazards. It includes information on numerous chemicals.

16. National Toxicology Program (NTP). Fourth Annual Report on Carcinogens: Summary. Research Triangle Park, N.C.: NTP Publication 85-002. Free. NTP Public Information Office, Box 12233, Research Triangle Park, NC 27709, Tel: (919) 541-3991.

This booklet describes chemical substances and manufacturing processes known or suspected to cause cancer in humans.

17. N.J. Department of Health. Hazardous Substance Fact Sheets. \$.25 each, first ten are free. N.J. Department of Health, CN 368, Trenton, NJ 08625, Tel: (609) 984-2202.

The collection is made up of almost 500 easy-to-read information sheets on substances on the N.J. Workplace Hazardous Substance List. The information is very thorough, useful for trainings.

18. N.Y. State Department of Health. Chemical Fact Sheets. \$100/package or \$.50/each sheet, NY State Resident: no charge. For out of state order: Health Education Services Ink, Inc., P.O. Box 7126, Albany, NY 12224.

These 200 chemical fact sheets are similar to MSDSs (Material Safety Data Sheets) but are written in lay-language.

19. O'Connor and Lirtzman. Handbook of Chemical Labeling. Park Ridge, NJ: Noyes Publications, 1984. \$64.00. Noyes Publications, 120 Mill Road, Park Ridge, NJ 07656, Tel: (201) 391-8484.

This book is designed to provide an indepth review of, and act as a source for, the major elements of a Hazard Label Communication Program.

20. Office of the Federal Register. Code of Federal Regulations: Labor: 29: Parts 1900 to 1910. Washington, D.C.: GPO, 1985. Free. Contact OSHA: Regional Office, Boston, (617) 223-6710; Waltham, (617) 647-8681; Springfield (413) 785-0123.

This governmental document contains regulations issued by the Occupational Safety and Health Administration (OSHA). It includes occupational safety and health standards.

CHEMICAL HAZARDS (cont.)

21. Proctor, N.H. and J.P. Hughes. Chemical Hazards of the Workplace. Philadelphia: J.P. Lippincott, 1978. \$39.50. Harper and Row, 2350 Virginia Avenue, Hagerstown, MD 21740, Tel: 1-800-638-3030.

This basic reference book gives information on the uses, toxic effects, medical tests and treatments for about 400 industrial substances. It was written primarily for physicians.

22. Sax, N.I. Dangerous Properties of Industrial Materials. 6th Edition. New York: Van Nostrand Reinhold Co., 1984. \$225. Van Nostrand Reinhold Company, Inc., 7625 Empire Drive, Florence, KY 41042-0668, Tel: (606) 525-6600.

This edition contains the synonyms and toxicological data for 18,000 substances, with a greater emphasis on safety hazards (i.e., flammability, explosivity and reactivity). The entries are brief and use technical abbreviations.

EMERGENCY SITUATIONS: FIRE & SPILLS

1. American Lung Association of Western New York, Inc. Chemical Emergency Action Manual. St. Louis: The C.V. Mosby Co., 1983. Out of print. See public or university libraries. The C.V. Mosby Company, 11830 Westline Industrial Drive, St. Louis, Missouri 63141, Tel: (314) 872-8370.

Easy-to-read fact sheets on about 60 substances. Medical instructions are provided along with information on how to control spills, leaks, fires and exposures.

2. National Fire Protection Agency (NFPA). Fire Protection Guide on Hazardous Materials, 9th Edition. Quincy, MA: NFPA, 1986. Member: \$39.60, Non-member: \$44.00. National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, Tel: 1-800-344-3555.

This reference provides information on fire hazard properties of flammable liquids, gases, and volatile solids; fire, explosion and toxicity for hazardous chemicals; hazardous chemical reactions; and a recommended system for the identification of the fire hazards of materials.

3. Student, P.J. Emergency Handling of Hazardous Materials in Surface Transportation. Washington, D.C.: Bureau of Explosives, Association of American Railroads, 1981. Bureau of Explosives, Association of American Railroads, 1920 L Street, N.W., Washington, D.C. 20036, Tel: (202) 639-2132.

This reference gives action response information on all hazardous materials regulated by the U.S. Department of Transportation. It is very useful for spill clean-up and firefighting.

4. Stutz, D. et al. Hazardous Materials Injuries: A Handbook for Pre-Hospital Care. Greenbelt, MD: Bradford Communications, 1982. \$16.95. Bradford Communications, 7329 Baylor Avenue, College Park, MD 20740, Tel: (301) 345-0100.

This book presents in-the-field protocols on different substances for paramedical personnel and Emergency Medical Technicians prior to transporting victims to a medical facility.

EMERGENCY SITUATIONS: FIRE & SPILLS (cont.)

5. U.S. Department of Transportation. Emergency Response Guidebook. Washington, D.C.: DOT, Materials Transportation Bureau, 1984. Publication No. DOT P 5800.3. Single copy available upon request. Free. U.S. Department of Transportation, Office of Hazardous Material Transportation, Research Special Program Administration, 400 7th Street, S.W., Washington, D.C. 20590, Tel: (202) 366-2301.

It is an emergency action guide that provides data on firefighting and evacuation procedures for a range of chemicals.

PERSONAL PROTECTIVE EQUIPMENT

1. ACGIH, Guidelines for The Selection of Chemical Protective Clothing. Cincinnati: ACGIH, 1983. \$35.00. ACGIH, American Conference of Governmental Industrial Hygienists, Inc., 6500 Glenway Avenue, Building D-5, Cincinnati, OH 45211, Tel: (513) 661-7881.

This document contains comprehensive tables of recommendations to aid in the selection of chemical protective clothing.

2. Birkner, L.R. Respiratory Protection: A Manual and Guideline. Akron, OH: American Industrial Hygiene Association, 1980. Member: \$12.00, Non-member: \$22.00. AIHA, American Industrial Hygiene Association, 475 Wolf Ledges Parkway, Akron, OH 44311, Tel: (216) 762-7294.

The purpose of this book is to assist employers in protecting employees and complying with the OSHA respiratory protection standard.

3. NIOSH, Certified Equipment List: Respirators, Coal Mine Dust, Personal Sampler Units. Washington, D.C.: U.S. Government Printing Office, 1985. GPO Stock No. 017-033-00422-6. \$13.00. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Tel: (202) 783-3238.

This publication lists respirators and coal mine dust personal sample units certified by NIOSH as of October 1, 1985. It also lists the limitations for specific groups of respirators.

4. NIOSH, Respiratory Protection - A Guide for the Employee. Cincinnati: NIOSH, 1979. PB80189301, NIOSH Publication No. 78-193B. \$9.95. National Technical Information Service (NTIS), Port Royal Road, Springfield, VA 22161, Tel: (703) 487-4650.

This booklet discusses the basics of respiratory protection. Topics include selecting the appropriate respirator, medical aspects of respirator usage, maintenance and fit-testing of respirators.

5. NIOSH, Respiratory Protection: An Employer's Manual. Cincinnati: 1978. PB80184401, NIOSH Pub. No. 78-193A. \$11.95. National Technical Information Service (NTIS), Port Royal Road, Springfield, VA 22161, Tel: (703) 487-4650.

This manual is designed to aid the small employer in complying with the OSHA requirements for a respiratory protection program.

PERSONAL PROTECTIVE EQUIPMENT (cont.)

6. Rajhams, G.S. and D.S.L. Blackwell. Practical Guide to Respiratory Usage in Industry. Stoneham, MA: Butterworth Publishers, 1985. \$24.95. Butterworth Publishers, 80 Montvale Avenue, Stoneham, MA 02180, Tel: (617)438-8464.

This book details a total respiratory protection program and each of its individual components.

TRAINING AND EDUCATIONAL MATERIALS

1. Finn, P. Teaching Occupational Safety and Health at the Secondary and College Level. Reston, VA: Association for the Advancement of Health Education, 1979. Out of print. See public or university libraries. Association for the Advancement of Health Education, 1900 Association Drive, Reston, VA 22091, Tel: (703) 476-3400.

This book is an instructor's guide on how to include job safety and health topics in school curricula. It includes a variety of learning activities.

2. Labor Occupational Health Program. Labor Educator's Health and Safety Manual. Berkeley, CA: LOHP, 1983. \$15.00. Labor Occupational Health Program, Institute of Industrial Relations, University of California, 2521 Channing Way, Berkeley, Ca 94702, Tel: (415) 642-5452.

The Manual presents an intensive training program aimed at unionists. It is designed to provide them with the skills and knowledge needed to serve as in-house experts on health and safety.

3. Massachusetts Coalition for Occupational Safety and Health (MassCOSH). Fact sheets on many chemicals, occupations, etc. \$.50 each fact sheet. MassCOSH, 718 Huntington Avenue, Boston, MA 02115, Tel: (617) 277-0097 Boston; (413) 732-2847 Springfield.
4. NIOSH. Audio Visual Resources in Occupational Safety and Health: An Evaluative Guide. Cincinnati: NIOSH, 1981. PB83105395, NIOSH publication #82-102. \$11.95. National Technical Information Service (NTIS), Port Royal Road, Springfield, VA 22161, Tel: (703) 487-4650.

This guide is a compilation of critical reviews of audiovisual training materials on the broad subjects of occupational safety and health.

5. OSHA, A Resource Guide to Worker Educational Materials. Washington, D.C.: U.S. DOL-OSHA, 1982, Free. U.S. Department of Labor, OSHA Office of Publication Distribution, Room S-1212, Third & Constitution Avenue, N.W., Washington, D.C. 20210, Tel: (202) 523-6666 or 376-6228.

This guide lists occupational safety and health materials - written, audio-visual, textual or outline format - suitable for worker training and education.

6. OSHA, OSHA Publications and Audiovisual Programs. Washington, D.C: OSHA, 1986. OSHA 2019 (Revised). U.S. Department of Labor, OSHA Office of Publication Distribution, Room S-1212, Third & Constitution Avenue, N.W., Washington, D.C. 20210. Free single copies can be obtained by calling OSHA: Boston (617) 223-6710; Springfield (413) 785-0123.

Appendix H

MUNICIPAL RIGHT TO KNOW FACT SHEET

This fact sheet will highlight the worker portion of the Massachusetts Right to Know Law. It will not cover the community right to know process. For further information on the municipal coordinator's role and aspects of the community's right to know, contact the Department of Environmental Quality Engineering (DEQE) at (617) 292-5810. (For regional offices, see Appendix E).

Following are details helpful in implementing the Massachusetts Right to Know Law as it applies to cities and towns:

WORKPLACE:

Many employees (for example, firefighters, inspectors, etc.) enter private and public workplaces in the community to perform their job duties. In these cases the definition of the workplace is expanded and includes all those private and public worksites. For training purposes, generic training is permitted to inform employees about the potential hazards to which they may be exposed. The request for MSDSs (for products in other worksites) is the same for municipal employees as other employees. They must give a written request to their municipal employer. The municipal employer (or the Right to Know Coordinator for the city or town) must make a written request for the MSDS to the employer, where the product is used or stored, to get the MSDS for the municipal employee.

ESSENTIAL PERSONNEL:

Employees covered by the RTK Law have the right to obtain and examine MSDSs for any substance to which the employee is, may be, or has been exposed. An employee may refuse to work with that substance if the employer has not furnished the requested MSDS or proof of diligent effort within four working days from the date of the written request (see p. 25 for more information). Public employees classified as performing essential service may not refuse to work with a substance under any circumstances. Municipalities may classify certain job titles or positions as "essential". Employees are to be notified of this decision in writing by the municipality. A copy of the written determination that the job is essential must be kept in a central location with the MSDSs, and employees must have access to the written determination. Employees have the right to appeal this designation to the Commissioner of Labor and Industries.

Note: The designation of employees as "essential" only applies to the right to refuse to work. All other aspects of the RTK Law (MSDSs, labeling, and training) still apply.

MUNICIPAL RIGHT TO KNOW FACT SHEET

REIMBURSEMENT:

The costs of implementing the worker portion of your Right to Know Program may be reimbursable by the State. Most municipalities are familiar with the fiscal restraints imposed by Proposition 2 1/2. However, Proposition 2 1/2 places the responsibility on the State to reimburse cities and towns for the cost of implementing any new State mandated program. The RTK Law is the first law of this kind.

Reimbursement guidelines and associated forms have been sent to all cities and towns. You should review this material to become familiar with the reimbursement process and to know which expenditures are actually reimbursable. If you have any questions or need further information contact the Reimbursement Coordinator in the Office of Administration and Finance at (617) 727-2081.

Appendix I

MASSACHUSETTS SUBSTANCE LIST

The Massachusetts Substance List (MSL) contains over 1600 substances that are taken from ten different sources. The MSL is indexed alphabetically by chemical name and numerically by Chemical Abstract Service (CAS) number. After each chemical name is a number in parentheses which indicates which source was used. To obtain copies of the MSL, see Appendix C.

The following sources are used for the MSL:

1. International Agency for Research on Cancer (Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, Supplement 4; Groups 1, 2A and 2B; and subsequent updates).
- *2. Occupational Safety and Health Administration (OSHA), Toxic and Hazardous Substances - 29 CFR 1910, Subpart Z.
3. National Toxicology Program (NTP), list of chemicals published in the Annual Report on Carcinogens.
4. American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Physical Agents in the Workplace.
5. National Fire Protection Association (NFPA), Hazardous Chemicals Data (NFPA 49).
6. National Fire Protection Association (NFPA), Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325 M) (All items rated II through IV as health hazards or III through IV as flammability or reactivity hazards.).
7. Environmental Protection Agency (EPA), Carcinogen Assessment Group's List of Carcinogens (July 14, 1980).
8. Environmental Protection Agency (EPA), Restricted Use Pesticides - 40 CFR 162.30.
9. National Cancer Institute (NCI). Chu, Kenneth. et al. "Factors in the Evaluation of 200 National Cancer Institute Carcinogen Bioassays", Journal of Toxicology and Environmental Health, 8:251-280, 1981.
- * National Institute for Occupational Safety and Health/ Occupational Safety and Health Administration, Occupational Health Guidelines for Chemical Hazards, contains the same substances as the OSHA List.

Extraordinarily Hazardous Substances

These are substances that are designated as carcinogens on the MSL and other substances that are considered extraordinarily hazardous.

For more information contact: Department of Public Health
Right to Know Program
150 Tremont Street, 7th floor
Boston, MA 02111
(617) 727-4942

MSDS CRITERIA SHEET

Following are criteria that must be satisfied in order for a Material Safety Data Sheet (MSDS) to comply with the Massachusetts Right to Know Law.

Whether or not the manufacturer and preparer of the MSDS is located in Massachusetts, all MSDSs supplied to Massachusetts users covered by the Right to Know Law must comply with these criteria. The Department of Labor and Industries advises employers to insert a clause in their purchasing contracts that allows refusal of shipments of any first order not accompanied by a properly completed MSDS.

Employers should use the following criteria to review MSDSs so that they may, in turn, justify returning any incomplete MSDS to the manufacturer. For the benefit of the manufacturer, this sheet, properly checked, should accompany all returned MSDSs, so the manufacturer will know what information is missing and can promptly return it completed. Be sure to keep a copy for your own files.

Please note that all spaces must be filled out, even if only to say "Not Applicable".

PRODUCT NAME _____

PREPARER

_____ Name of manufacturer or supplier
_____ Complete street address
_____ Emergency telephone number
_____ Date MSDS was compiled or revised

*HAZARDOUS INGREDIENTS/CHEMICAL IDENTITY

_____ Chemical name of product if a pure substance, or of each ingredient in a mixture **
_____ Common name(s), if they exist
_____ C.A.S. (Chemical Abstract Service) number of product if a pure substance or of each hazardous ingredient in a mixture (C.A.S. numbers are listed on Massachusetts Substance List.)
_____ Percentages of each hazardous ingredient

PHYSICAL DATA

_____ Boiling point
_____ Vapor density
_____ Vapor pressure
_____ Flash point
_____ Other pertinent physical data

SAFETY DATA

_____ Fire hazards
_____ Explosion hazards
_____ Reactivity

Appendix J (cont.)

MSDS CRITERIA SHEET

HEALTH RISK DATA

- _____ Acute and chronic health effects in non-technical terms
- _____ Any carcinogenic, teratogenic, mutagenic or neurotoxic effects as
- _____ designated on the Massachusetts Substance List
- _____ Medical conditions that may be aggravated by exposure
- _____ Routes of exposure, i.e., inhalation, skin, eyes and ingestion
- _____ Symptoms of overexposure

SPECIAL PRECAUTIONS

- _____ Proper safety precautions
- _____ Safe handling procedures
- _____ Proper protective equipment

EMERGENCY PROCEDURES

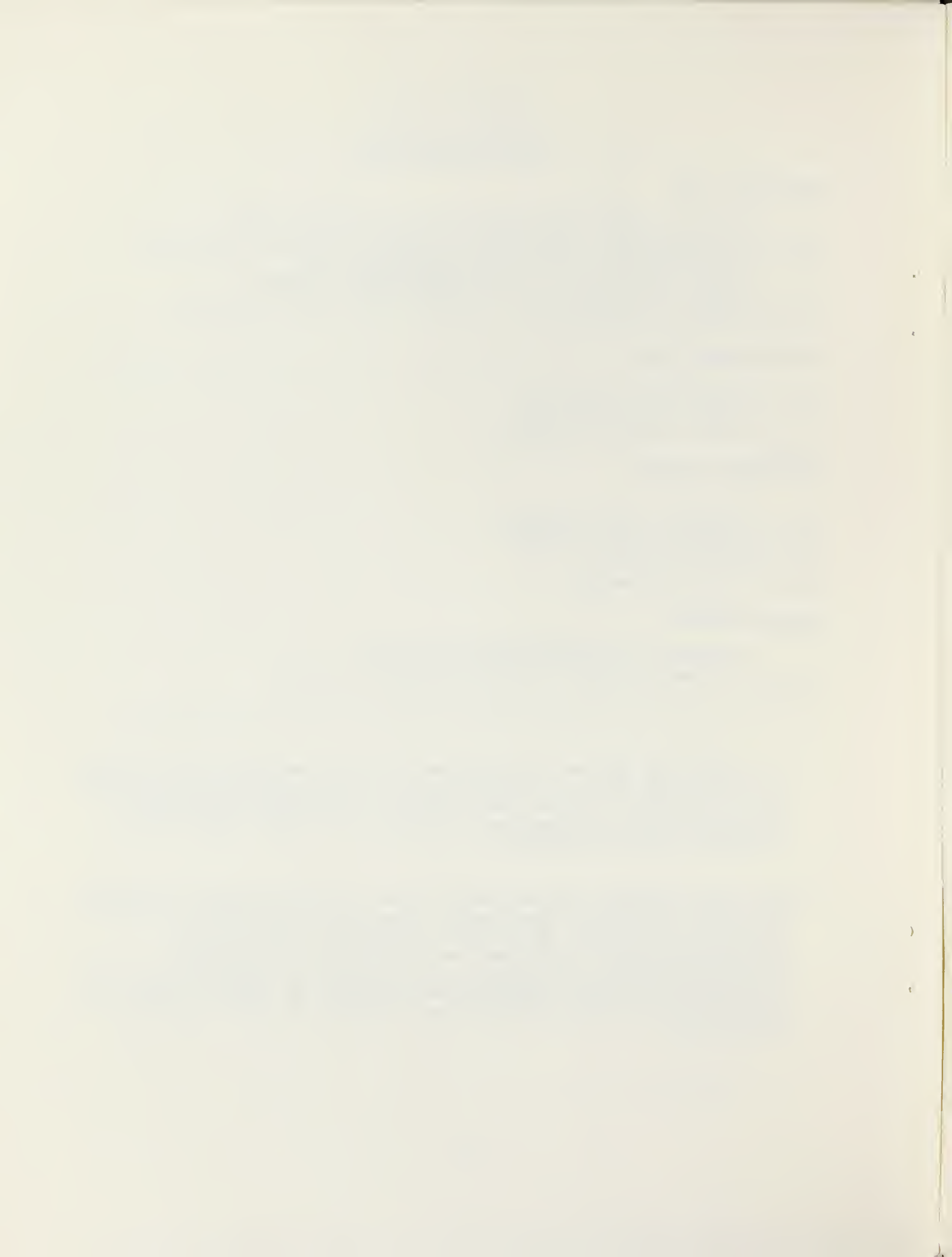
- _____ First aid
- _____ Emergency medical treatment
- _____ Emergency fire procedures
- _____ Spill procedures
- _____ Disposal procedures

CONTROL MEASURES

- _____ Recommended engineering controls (specify)
- _____ Recommended personal protective equipment (specify)

* If a product is approved as a trade secret by the Massachusetts Department of Public (DPH) Health, the manufacturer may omit the chemical name, common name, CAS number or percent from the MSDS. DPH assigns an eight-digit number to all approved trade secret products. All number begin with 99-. An example would be 99-999-999.

** Only those substances and ingredients listed on the Massachusetts Substance List must be provided. Please note, however, that if the product is not hazardous, the notation "No hazardous ingredients regulated by the Massachusetts Right to Know Law" must be written in the Hazardous Ingredients section of the MSDS. Only ingredients in concentrations of 1% or more must be listed. Exceptions are impurities in a mixture (must be at least 2%) and Extraordinarily Hazardous Substances (at least 1 part per million/ppm).



Right to Know CONSULTATION PROGRAM

Massachusetts Division of Occupational Hygiene

The Massachusetts Right to Know (RTK) Law went into effect on September 26, 1984. This law requires that employers provide information to employees on toxic or hazardous substances in the workplace in the form of material safety data sheets (MSDSs), container labeling and annual training.

The Division of Occupational Hygiene (within the Department of Labor and Industries) has set up the Right to Know CONSULTATION PROGRAM for the purpose of helping employers fulfill their obligations under this important law. With a professional staff of industrial hygienists and occupational health specialists, this program is designed to provide technical and educational consultative services to employers who need assistance in setting up an effective workplace Right to Know program. There is no charge for services offered through the RTK Consultation Program.

BUT DOESN'T THE NEW OSHA HAZARD COMMUNICATION STANDARD CHANGE EVERYTHING?

No! The OSHA Hazard Communication Standard regulates only the manufacturing sector, i.e., employers within Standard Industrial Classification (SIC) codes 20-39. In that sector, this standard preempts the Mass. Right to Know (RTK) Law only as it applies to the communication of information to workers. (This does not absolve manufacturers of all their responsibilities under the RTK Law; primarily, dissemination of MSDSs to customers, and filing MSDSs with the State for community access purposes.)

For employers in all other SIC codes, namely non-manufacturing and public employers, all the provisions of the Mass. RTK Law remain in effect.

WHO CAN PARTICIPATE IN THE RTK CONSULTATION PROGRAM?

Employers in the non-manufacturing and public sectors, i.e., those having SIC codes other than 20-39, are eligible to participate in this program. Highest priority will be given to small businesses. (Manufacturers interested in consultative services pertaining to the OSHA Hazard Communication Standard should contact the OSHA 7(c)(1) Program at (617) 969-7177 or (617) 727-3463.) Employers can call the Right to Know Program at the Mass. Division of Occupational Hygiene for their SIC code.

HOW CAN THE CONSULTATION PROGRAM HELP EMPLOYERS COMPLY?

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| <p>Employer Responsibilities</p> <p>1) Inventory chemicals and compare their ingredients to the Mass. Substance List (MSL).</p> <p>2) Obtain Material Safety Data Sheets (MSDSs) for regulated substances and file them with the State. Use information on MSDSs for other RTK requirements.</p> | <p>Consultative Assistance</p> <p>1) Provide guidance on how to inventory chemicals, evaluate your previous efforts, identify substances that are on the Mass. Substance List (MSL), etc.</p> <p>2) Aid in obtaining MSDSs and in setting up procedures for employee access. Provide technical assistance for understanding and using MSDSs.</p> |
|---|---|

- | | |
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| <p>3) Label containers with the chemical names of the toxic or hazardous ingredients.</p> <p>4) Train employees annually if they may be exposed to toxic or hazardous substances. Trainings must include an explanation of: their legal rights, how to read an MSDS, the specifics of the hazardous chemicals used and the use of personal protective equipment, etc.</p> | <p>3) Assist in determining the labeling requirements for your workplace.</p> <p>4) Provide technical and educational assistance in designing a training program as it applies to workplace substances regulated by the Mass. RTK Law.</p> |
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A CONSULTATION WITH THIS PROGRAM WILL CONSIST OF THE FOLLOWING STEPS:

- 1) **Getting started.** Since RTK consultation is a voluntary activity, you the employer must request it. Your telephone call or letter sets the Consultation Program in motion. A consultant will discuss your specific needs, and plans will be made for an initial consultative visit.
- 2) **Initial on-site visit** will include:
 - a) Opening conference during which the needs of your company and the objectives of the RTK Consultation Program will be discussed. Both management and employee representatives are encouraged to participate.
 - b) A workplace walk-through survey to identify chemical hazard areas.
 - c) A review of your prior Right to Know efforts.
 - d) A closing conference to discuss preliminary findings, make recommendations and establish an agenda for a final visit.
- 3) A **final visit** will focus primarily on the development of an effective training program which addresses the health and safety risks posed by the toxic and hazardous substances in your workplace. Input from management, supervisors and employees is strongly encouraged.
- 4) A **report** summarizing observations and recommendations will be sent to the employer.

While participation in the Consultation Program is voluntary, compliance with the Massachusetts Right to Know Law is not. Employers who take part in this program do so with the implied agreement to come into compliance within a reasonable abatement period. Participation in this program does not guarantee compliance with the RTK Law, or afford immunity against future complaints and enforcement activities.

For further information about the Right to Know Consultation Program, contact:

Right to Know Program
Massachusetts Division of Occupational Hygiene
 1001 Watertown Street
 West Newton, MA 02165
 (617) 969-7177

